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To the Members of the Committee on Education.

GENTLEMEN: My purpose here primarily is to consider the problem of public education not in its relation to persons or parties. I am not concerned with individual opinion, my own or another's. What I wish to place before you is the one basic fundamental proposition that Public Education Is a Function of the State, that any opinion or expression contrary thereto must carry with it a burden of proof not less strong than that which would be required for a plea for the abolition of the writ of habeas corpus, or of the right of representation in taxation.

In other words, the control by the state of education is one that is based on the law and custom of the land.

The following question was asked of the United States Bureau of Education:

"In what state, if any, in the Union is public education considered primarily a local function, such as police, corrections, etc., instead of a state function?"

The answer by telegram signed by W. S. Deffenbaugh, Chief of Division of School Administration, is "None."

State control is expressed in the constitutions of the states; it is enforced by the statutes and codes of states; it is confirmed by decisions of courts of record. He is a bold man who would undertake to pit his puny opinion or point of view against the accumulated experience of the people of the Republic, and it makes little difference in this regard how sincere he might be in advancing them.

At a later period I shall furnish to the members of the Committee a summary of the educational provisions of the constitutions of the states, all of which establish without exception the position set forth.

From the large volume of legislation adopted in the various states, I have selected excerpts from the statutes of twenty-one states, which similarly confirm the proposition that public education is a function of the state. I would call special attention to the Pennsylvania code, which absolutely establishes the independence of Boards of Education, and concerning which I have received two competent opinions. The State Superintendent of Schools reports that "the new code in operation since 1911 has greatly improved the administration of schools, especially in cities"; the City Superintendent of Schools of Philadelphia states, "So far as I know it is the unanimous opinion of educators and citizens in general that the School Code is a great improvement on our former school laws. It is in every way operating successfully." These examples of legislation to which reference is made will later be submitted for your attention.

Such legal decisions as have been collated respecting the power of the

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state through the Boards of Education prove beyond question the power of such Boards as agents of the state in matters of public education. The language of these decisions deserves careful examination and study.

Since education is a function of the state, the only problem remaining lies in the interpretation of that principle with reference to municipal finances. As the present charter provides a legal minimum of a three-mill tax, and as the sum yielded by that tax must, in a considerable measure, be made up by additional appropriations, the allowance of the additional sum will always involve a question as to attempts, intentional or otherwise, by municipal authorities to exercise educational control.

There is of late a tendency, frankly expressed, on the part of these authorities to control education, not only by reducing the amounts appropriated below the actual amounts needed for the appointment of regular teachers, but by determining what items of the budget should, in their opinion, be reduced or excised. This is quite beside any question of allowing money on any such fixed basis as that of attendance or the like. It is in effect a deliberate attempt to determine just what sort of education should be established and to what classes of the community it should be given, although both positions completely disregard the fact that there is no legal right or title whatever for such an attitude.

The present demand for home rule, a demand which within its own limits, is deserving of the most careful and sympathetic consideration, has been confused with another and entirely different proposition, to wit: the deprivation of the sovereign power of educational control, now pursued by every state of the Union.

With the principles of home rule, there is no issue. Now, home rule, in a truer sense, means the ability or power given to an entity to do all that is necessary to regulate and control its affairs, and perform the functions which belong to it. The function of the Board of Education is to control and regulate school affairs. It just as truly represents the citizens as does the financial body. As I have indicated, the Board of Education is an instrument of the state and should remain so. The city is only a political division of the state. How can the Board of Education perform its functions if another power is primarily dictating its course through control of funds? In other words, home rule is not a branch of geography or of politics, but is a matter of the distribution of functions to the agents to whom the functions properly belong. Education is a continuous process and educational policies should therefore be continuous. Municipal administrations come and go, but educational policies should not be affected thereby. It should be beyond the power of any single individual, or even a small group of individuals, to work a revolution in educational policies. We find that functional home rule is the kind of home rule which has been granted in most of the large cities of the nation. Thus, according to the findings of a member of the School Inquiry Committee, we find financial independence has been granted in Boston, Cleveland, Philadelphia, Pittsburgh, St.

Louis, Cincinnati, Milwaukee, Seattle, Denver, Portland, Los Angeles. (E. C. Moore in the May issue of the *Educational Review*.) Local control, on the other hand, means the subservance of the Board of Education to changing local political administrations.

There is another matter which is so closely related to state control of public education, that it stands on all fours with it, and that is the financial independence of boards of education, which are agents of the state.

I shall later discuss some questions that have been brought before you by an officer of the city government. Here I shall limit myself, at this time, only to an examination of the principle of independent financial control of educational expenditures.

Whether boards of education be large or small, the question of financial independence overshadows all other questions. Perhaps the clearest discussion of this subject appears in the *Educational Review* for May, 1915, by Prof. Ernest C. Moore, of Harvard University, and one of the members of the former School Inquiry Commission in New York City. Prof. Moore favors a small unpaid board, but he believes in financial independence for all boards. He says:

"Since it is the inevitable tendency of city officials to push authority of their offices quite beyond the limits set for them by the law, if 'settled policy of the State' is to be carried out and the rights of the children to an education are to be kept from being made pawns in the ever-recurring political game, New York City must employ the means which St. Louis, Pittsburgh, Philadelphia and other large cities of the country have been forced to adopt; that of making her schools free from politics by making her board of education completely independent of her city hall.

"Policies as old as the State cannot be so lightly set aside that an untried theory may be advocated; the experience of the rest of the nation cannot be disregarded; the facts themselves cannot be overlooked, to produce a doctrinaire result—the mere setting forth of a preconceived theory.

"It is not the small board, but the small board with practically complete control of the management and conduct of the schools—financial and administrative—which has corrected evils from which New York suffers. The small board in Boston is an independent board not subject to control, direct or indirect, by any other city authority save that the mayor approved its appropriations; but the board has power even to set aside his vote by a two-thirds' vote. The small board in Philadelphia and Pittsburgh is an independent taxing and bond issuing body, wholly separate from the control of the city government. So it is in Kansas City and St. Louis. It has somewhat similar independence of city control in Cleveland, Cincinnati, Milwaukee, Seattle, Denver, Portland, Oregon, and Los Angeles. And it is the independence of the board from political control—its freedom from interference—and not its small size alone that enables it to conduct the schools in a proper fashion.

"It is in the control of its funds that its freedom and its ability to direct the school well lies.

"No matter how specific the law may be on this point, unless it makes the board of education financially independent of the city hall, some device like a uniform accounting system or criticism of its estimate will be made to do duty as a warrant for more or less complete control over all its acts. This is the experience not only of New York City, but of

every other American City which has made the administrative mistake of not separating its school management entirely from its city hall. The recent experiences of Chicago are but the latest evidences of the utter impossibility of allowing the schools to be a department of the city government. 'Nothing is clearer,' writes President Eliot, 'than the impossibility of managing well the school affairs of a large city, if its school board has not independent income on which it can rely for the current year and predict with reasonable accuracy for several years to come. Without it, the element of planning is almost completely taken away and all the economies which careful planning can accomplish are denied it.'

"The facts and the historical relations have proven, over and over again, that it is impossible to define this two-handed method of school administration so that it will work. If experience on this subject, both in New York City and out of it, is reckoned up, New York will not find it to her advantage either financially or educationally to furnish one more proof that failure lies along this road. * * * Let her not be deluded by believing that she has the safeguard of a board of education, when the board of education is one in name only and the real school administration is part and parcel of the political system. But if it wants its public schools conducted for the education of the children, let it erect a small board of education from the city at large and give it exclusive power to provide whatsoever things are needful for the proper conduct of the schools and to conduct them, being as directly responsible to the public for the tax it may levy for school purposes as the board of estimate now is, and vastly more responsible to the people for the proper conduct of the schools than either the board of estimate or the board of education now is or can be under any two-headed division of authority whatsoever."

The dangers from municipal politics are real, but they are not the only dangers. Education will always suffer from municipal control just as it has suffered in the past, just as it suffers now. It is unnecessary to question the good faith of any municipal officers, or to indulge in any personal attack for the reason that municipal officers, good, bad and indifferent, are all prone to consider less the interest of our children, than those which determine political success and preferment—not the least of which is a reduced tax rate.

No sane person believes in extravagant administration, whether in education or in any other activity. But we believe that those who by law are empowered to control and direct education have the right of educational direction. Notwithstanding the plain mandate of the law, it is a fact that the Board of Education in New York City does not enjoy the privilege and cannot exercise the responsibility lodged in it by law because of the limitations placed upon it, some of them grave and important, others petty and irritating.

For the items of its budget are each decreased or excised according to the ideas, not of any member of the Board of Education, frequently not even of any member of the Board of Estimate and Apportionment but of some employee of one of its departments.

Therefore, it is essential that the Board of Education, or any other body to whom, by law, is delegated the responsibility for educational administration, should be empowered to exercise it. This may be done

by a constitutional provision; possibly it may be better done through legislation. In any case, it would be fatal to allow the control of education to pass from the state to municipalities, unless indeed we are prepared to surrender all the ideals and habits of thought and accepted theories of government which we have hitherto enjoyed.

So clear is the need of some provision, that many methods of meeting the situation have been devised. Pennsylvania, in her code, and Virginia, in her constitution, both prescribe a set mill tax. Another method has been to endow Boards of Education with a certain independence, subject to veto by the Mayor; and in Boston, the Board of Education has a right to veto cuts made by the financial authorities of the city.

I am disinclined to suggest minute regulations through the instrumentality of constitutional provisions. I believe, however, the wisest and simplest method would be to provide for the principle of separate taxation, the legislature to prescribe the method of the collection. Such a provision will be submitted to you for consideration.

I have been asked to discuss certain testimony respecting municipal control of education, which was recently presented to your Committee by the Comptroller of The City of New York.

The Comptroller gave prominence to the following points, in addition to the fundamental points which I have already discussed:

1. That the rate of appropriations for the Board of Education of The City of New York has increased since 1911 in relation to the appropriations for the city government, exclusive of debt service, deficiencies in taxes and county government.

2. That the Board of Education asks the Board of Estimate and Apportionment for larger appropriations than it expects to receive.

3. That the Board of Estimate and Apportionment alone is responsible to the taxpayers—the Board of Education not at all.

4. That a paid Board of five members would save millions of dollars.

5. That regular day school teachers should be drafted for the conduct of summer schools.

1. THAT THE RATE OF APPROPRIATION FOR THE BOARD OF EDUCATION OF THE CITY OF NEW YORK HAS INCREASED SINCE 1911 IN RELATION TO THE APPROPRIATIONS FOR THE CITY GOVERNMENT, EXCLUSIVE OF DEBT SERVICE DEFICIENCIES IN TAXES AND COUNTY GOVERNMENT

The Board of Education is not concerned, primarily, with the percentage proportion which its appropriations bear to the total expense of the city government. The Board of Education is, first and foremost, concerned with the question of sufficiency in appropriation. The Board of Education is not without justification when it considers that education is among the first of the activities, if not the first for which provision should be made; that education in fact, is a first mortgage upon the City's resources. Educational needs are regulated by the volume of school population, and not by relation to other expenses. In the sense in which we are speaking there is no question of policy involved in caring, educationally, for a given

number of units of attendance. We may not discriminate and say we will provide for one and not for another. The problem simply is that to provide education of the proper kind for a given number of units of school population costs a certain definite amount of money. What relation this amount bears to the amounts for street cleaning, police, or what not, is immaterial so far as the Board of Education is concerned.

In recent years there has been a wider demand for, and public use of educational facilities, than ever before. For example, in the last eight years the increase in day elementary school attendance has been 33%; in day high schools 109%; in evening elementary schools 31%; in evening high schools 112%. In addition, there has been great demand for recreational activities, continuation instruction, trade or vocational training, etc. The Board of Education, as the steward of the state in educational matters, has conceived it to be a duty to heed these demands, and to seek funds for yet more facilities and greater educational opportunities.

It is noticeable that the Comptroller, in computing his percentages, eliminated from his gross figure the items for debt service, deficiencies in taxes, and county government. Now these items have reached large proportions in The City of New York, and since provision must also be made for them in the tax rate, the inevitable tendency has been to restrict other items in the budget. The Comptroller, in excluding these items from his percentage calculation, produced a certain ratio which is higher than would be obtained by considering the educational appropriations in relation to the whole tax burden. The question of debt service and other items excluded by the Comptroller, in the final analysis, means that the City has entered, voluntarily or otherwise, upon numbers of other propositions and activities, and that costs, interest and otherwise, present themselves at budget time, and are considered in relation to all other and current activities, of which education is one. It is improper to exclude such items from a percentage comparison, for they exercise a strong influence in the reduction of allowances for current activities.

The relation which the total of the general and special school funds of the Board of Education has borne to the entire tax budget of the City at large since 1905, is stated below:

<i>Year</i>	<i>Tax Budget for City at Large</i>	<i>Tax Budget for the Board of Education</i>	<i>Percentage relation of Board of Education Tax Budget to Tax Budget for City at Large</i>
1906	\$116,805,490 37	\$23,358,188 69	19.9975
1907	130,421,505 66	24,915,928 16	19.1041
1908	143,572,266 17	26,712,963 59	18.6059
1909	156,545,148 14	27,470,736 80	17.5481
1910	163,130,270 37	28,578,432 43	17.5187
1911	174,079,335 16	29,007,747 14	16.6635
1912	181,090,256 51	33,849,819 74	18.6922
1913	192,711,441 16	35,206,846 96	18.2692
1914	192,995,551 62	38,203,406 92	19.7949
1915	198,989,786 52	39,840,349 90	20.0213

(NOTE—The above figures represent the situation at the time the budget was fixed. There were sundry subsequent adjustments either by

relinquishment of balances by the Board of Education or the granting of Special Revenue Bonds by the financial authorities. However, the figures as stated represent the deliberations and conclusions when the budget was fixed.)

It appears, therefore, that closer analysis shows, if all municipal expenditures be included, that the variation is no longer one between 27.3 per cent. in 1911 and 31.6 per cent. in 1915, as stated by the Comptroller, but for the past ten years an increase from 19.9975 per cent. in 1906 to 20.0213 per cent. in 1915, the minimum being 16.6635 in 1911.

There is much that is fallacious in the application of percentages to appropriations. Too often it has been the practice of the Board of Estimate and Apportionment to determine educational allowances by adding a certain per cent. of increase over the appropriation of the preceding year. One of the members of the School Inquiry Commission severely criticized this method in the following language:

"Your comparison, however, that the Board of Education ought not to expect the Board of Estimate to do for it in the general fund five or six times as much as was done last year (1913), is not only a false comparison, but fallacious, and contrary to sound budget making. The Board of Education might equally well hold that its requests this year (for 1914) are what they are by reason of the fact that the Board of Estimate last year only gave the Board of Education one-fifth or one-sixth as much of an increase as it had requested. * * * It will, however, be admitted, I think, by all who know the facts at this time, that the allowances in the general fund for last year (1913) were inadequate as shown by the present deficiency of approximately a half million dollars. * * * Hence to fix the needs of the schools on the basis of what was done last year is wrong. The question is not what the Board of Estimate and Apportionment did last year. The question at issue is 'What are the actual needs of the schools for the budget year 1914?' * * * To compare request with allowance would be exactly like doling out food to a starving man on the basis that he had been given so much during the preceding days, and that the amount previously allowed would have to be ample for him in the succeeding days. * * * The only honest and dignified position * * * is, when the actual needs of the school are demonstrated to recognize these as needs, and if the Board of Estimate and Apportionment is unable to make adequate allowances, the failure to make such allowance will not be based upon what was given in previous years, but upon its inability to do so in view of the financial resources of the City. * * * Your position * * * adds weight to an already too prevalent feeling that it does not matter what facts are presented, estimates are cut in view of the expediency of the moment."

2. THAT THE BOARD OF EDUCATION ASKS THE BOARD OF ESTIMATE AND APPORTIONMENT FOR LARGER APPROPRIATIONS THAN IT EXPECTS TO RECEIVE

The Comptroller stated that the Board of Education appeared last year before the Board of Estimate and Apportionment with an estimate confessedly more than it expected to get, and that members of the Board so admitted. The Comptroller supplied the inference that the estimate was over-loaded for the purpose of securing a larger sum than otherwise would

have been granted, and the implication is that the Board of Education requested more than it actually needed.

Objection is not so much to the statement as to the inference which is obvious was intended to be conveyed. It is literally true that the Board of Education places items in its estimate which it does not expect to get in full. The Board of Education does not expect to get all it asks, if for no other reason than because the memory of none goes back to the time when the financial authorities were so liberal, or agreed to such an extent with educational policies that the whole amount requested was granted. There is another reason why the Board of Education does not expect to get all that it asks, a reason which for many years has been the controlling factor in the consideration of educational estimates. The Board of Education, as has been stated, is concerned with a request which shall adequately represent the needs of the school system. The Board of Estimate and Apportionment, on the other hand, is confronted by the fearsome tax rate, so that, as a practical proposition, the total of allowances, and the component items thereof, are not regulated by attested needs or sound judgment, but almost solely by a consideration of the tax rate.

Most of us who have to do with matters of city finance understand full well that presentation of facts and arguments have little weight. As bearing upon this point there has come to light a letter written to the Chairman of the Budget Committee of the Board of Estimate and Apportionment, by one of the chief budget examiners, regarding the 1914 budget of the Department of Education as follows:

"I believe that a great deal of time can be saved and much confusion and disputing can be avoided if the Budget Committee will decide in advance of the public hearing what its policy will be in regard to extensions of old activities, establishment of new activities, and provision for increased register; also what its policy will be as to the increase requested for repairs to school buildings, for additional force in the official and clerical staff, and additional supplies. * * * It would be very helpful if the Budget Committee would decide in advance upon some definite figure to be allowed for the Board of Education; in fact, I think the Committee should agree upon a total for the entire city budget. We can do much better work if we have a definite figure at which to aim."

There is also a recognizable situation at the moment in The City of New York. A publicity campaign is apparently being carried on with the purpose of educating the public either to expect a rise in the tax rate or a reduction in activities in 1916. Notwithstanding this it would be inexcusable for the Board of Education to present an estimate for 1916 for less than educational needs.

It is true, from another viewpoint, that the Board of Education may not expect to get the full amount of its request. Certain discretionary items were included in the estimate for 1915, and similar items were included in the estimates of previous years, in order that they might come up for discussion. Funds have sometimes been granted, and sometimes not. With such propositions the Board of Education takes no issue with the Board

of Estimate and Apportionment. It is recognized that certain things, while desirable, are not absolutely necessary, and that in case of financial stringency they should be dropped. The Board of Education of its own accord often eliminates items from its formal estimate. For example, there were reduced or wholly eliminated from the estimate of 1915, items previously approved, amounting to \$1,375,985.40. This was done before the estimate was sent to the Board of Estimate and Apportionment, and it was done, not because those items were not highly desirable, but because it was recognized that the financial authorities were pressed for funds, and these items were of less importance.

However, the Comptroller is very much in error if his statement means that the Board of Education is content with the allowances made. The principal portion of the educational funds is that for teachers' salaries known as the General School Fund. The Board of Education asked for this purpose for 1915, the sum of.....\$34,769,195 01
The Board of Estimate and Apportionment allowed..... 32,759,695 92

a cut of..... \$2,009,497 09
But in the City of New York the Board of Aldermen may also reduce an estimate, and that body decided to make further reduction, announcing that they were cutting 15 per cent. of the allowance made by the Board of Estimate and Apportionment for new teachers, which meant a further reduction in the teachers' salary fund of.....\$150,000

The Board of Education did not expect the Board of Estimate and Apportionment to make a cut of the size which they did, and it certainly did not expect the Board of Aldermen to further reduce the then too meagre allowance. It may be stated that the Board of Education submits its estimate in most minute detail, so that it was possible for the Board of Estimate and Apportionment to determine precisely the items which it desired to reduce. Some of the items are of fluctuating character, and, as such, are matters of judgment and estimate, both on the part of the Board of Education, and on the part of the Board of Estimate and Apportionment. In such cases the Board of Estimate and Apportionment made enthusiastically liberal cuts. Two items, however, deserve special mention:

(a) Owing to litigation regarding the eligibility of certain persons to teach grades of the last two years in day elementary schools, formal promotions have been withheld for some time and upper grade classes have been filled by persons who have temporarily waived the statutory rate of pay. Anticipating a decision by the State Commissioner of Education an item of \$265,093.33 was placed in our departmental estimate for 1915 to provide for making about 1,000 formal promotions. At the time the estimate was considered by the Board of Estimate and Apportionment a decision had not been rendered; consequently this item was entirely cut out by that board. Decision having now been rendered, the item has again been submitted to the financial authorities in the shape of a request for Special

Revenue Bonds to make promotions effective from the opening of the fall term. Request for this item has, therefore, been renewed, although in a smaller sum due to a shorter period of time.

(b) We now come to a very vital item, namely, the item for new teachers, etc., to fill vacancies and new positions. From this item the Board of Estimate and Apportionment either cut new positions or failed to make full allowances of money for the positions which they did allow to an amount aggregating \$470,306.45, and, as stated above, the Board of Aldermen joined in the onslaught by reducing this item \$150,000 more, making a total reduction of \$620,306.45. Of this amount \$77,400 applied to the taking of the school census, required by law, and the enforcement of the Compulsory Education Law and the Newsboys' Law. The Board of Education was undoubtedly justified in expecting to receive allowances for practically all of these new positions. There was every indication at the time the estimate was considered that they were necessary, and every development from that time to this tends to support the original figures.

The result of these severe cuts is that the Board of Education, in order to keep within its appropriations for teachers' salaries, has been obliged to resort to the questionable expedients of forming extra large classes and employing substitutes in vacancies at lower rates of pay than would be drawn by teachers regularly appointed. It is now confronted with the proposition of deciding to what extent, if at all, it shall conduct summer schools. There is also every indication that some of the fall evening activities will have to be abandoned or greatly reduced. The evil effects of these expedients are not at once apparent. Schools go on, so far as ordinary observation is concerned, in the usual manner. It is not at once evident that there is a well-defined impairment of the quality of the education imparted. These the Board of Education very strongly deprecates but finds itself helpless to remedy.

The above applies to the regular day activities. So far as the salary items for the special activities are concerned, consisting of evening schools, vacation schools, playgrounds, recreation centres, baths, after school athletic centres and lecturers' fees, the Board of Estimate and Apportionment allowed substantially the same amounts as for 1914, except in the following cases:

(a) Salaries for vacation school teachers were disallowed entirely. The sum of \$72,596.74 was spent for this purpose in 1914.

(b) The allowance for vacation playgrounds was *increased* from \$85,000 in 1914 to \$100,000 for 1915.

(c) The allowance for recreation centres was decreased from \$100,000 in 1914 to \$50,000 in 1915.

From the items requested in 1915 in the Special School Fund, which covers all current expenditures except salaries of the supervising and teaching staff, the Board of Estimate and Apportionment cut the sum of \$396,747.81. Part of this was on account of discretionary items, such as

referred to previously, which were disallowed in whole or in part. The balance of the cut in this fund is distributed over a great number of items of supplies and equipment, also items for maintenance and operation of plant, salaries of administrative force, etc.

Given pupils and teachers and you have schools. Cuts from a general school fund may mean inability to employ teachers. Hence cuts from the General School Fund are a greater evil than cuts from the Special School Fund, which may only mean inability to supply the luxuries of education, such as adequate housing, supplies and equipment. The increase in the General School Fund for 1915 over 1914 is but 3.41 per cent., the lowest per cent. of increase since 1903, when it was 3.29 per cent.

3. THE BOARD OF ESTIMATE AND APPORTIONMENT ALONE IS RESPONSIBLE TO TAX-PAYERS—THE BOARD OF EDUCATION NOT AT ALL

The Comptroller stated that the Board of Estimate and Apportionment alone is responsible to tax-payers—The Board of Education owes no responsibility to the tax-payers. He concluded from this ex parte declaration that it was proper for the Board of Estimate and Apportionment to exercise its judgment as to expenditures for education. Exception must be taken to the Comptroller's attitude that the Board of Estimate and Apportionment alone is responsible to the tax-payers, and must consequently control educational affairs. We find expressed here a very usual attitude assumed by elective officers; to wit, that a certificate of election is a blanket commission to work one's will or fancy in all branches whatsoever of governmental endeavor. It does not follow from the fact that the Board of Estimate and Apportionment has a part in the fixing of the tax rate, that they alone have sole responsibility for all branches of city government. It may be they feel their part of the responsibility the more keenly because the tax rate is the political bugaboo of elective officers, for increase in tax rate may be considered sufficient cause for enforced retirement from office. However, responsibility other than the regulation of the tax rate is owing to the tax-payers of a community. One has but to inspect the educational section of the Greater New York Charter (see quotations later) to discover that upon the Board of Education is placed inclusive and exclusive responsibility for the conduct of a system of public education. This duty does not devolve upon the Board of Estimate and Apportionment. It does devolve upon the Board of Education.

The Comptroller asks the question "Who is responsible if the Board of Education is entirely wrong: If the Board of Education is profligate with money that is appropriated for its purposes?" He answers "The Board of Estimate and Apportionment." This is not so. It is a fact in law and also in public estimation that the Board of Education is responsible for the school system.

Many court decisions attest the first, and the public press bears witness to the second.

4. A PAID BOARD OF FIVE COULD SAVE MILLIONS OF DOLLARS

If millions of dollars can be saved in the educational system, such amount is either being expended to meet a legitimate public demand, or is being expended for objects which are useless and not in public demand. If the former, what activities are to be abandoned? If the latter, then there must be somewhere in the school system an excrescence of such magnitude that even the inexpert might unhesitatingly point it out. Where is this needless expenditure running into millions? Educational activities have been almost continuously under investigation for the last five years. Have these investigators pointed out the places where millions might be saved? One investigator, at least, called the attention of the Board of Estimate and Apportionment to the fact that the regular day elementary schools are undermanned, and that the corps should be increased.

It requires but little imagination to foresee the relationship which a paid board, organized as the Comptroller advocates, would have to the financial authorities. The payment of salary would, of itself, destroy the independence of the board, for it is unlikely that members would act in a manner to prejudice their perpetuation in office. The office of member of the Board of Education would become a part of the "spoils" system. There probably would be greater harmony on financial matters between a paid board and the Board of Estimate and Apportionment, for the reason that it would be easier to convey unofficial suggestions or instructions to a paid board of five, appointed by the Mayor for the city at large, than it is to influence in the same manner a large unpaid board with feelings of local sympathy and responsibility. A suggestion would be an order, and the whispered word in camera would take the place of public discussion and deliberation.

In general, the advocates of the paid board seem to surround their program with considerable secrecy. Is such a board to have financial independence or to occupy a position subservient to the Board of Estimate and Apportionment, as advocated by the Comptroller? Is such a board to be legislative or executive in character, or both? If members are to be paid, as the Comptroller advocates, it is natural to assume that all the time of the members will be devoted to educational service. It follows, then, that they will perform a certain amount of executive and administrative work, for legislative work or policy determining work could not occupy their whole time. If they are to perform executive and administrative work, it is pertinent to remember that the present statutes provide high technical qualifications for positions of this kind, as for example, the City Superintendent of Schools, Superintendent of Buildings, *et al.* Are similar high qualifications in mind for members of the small paid board?

Recurring again to the statement of the Comptroller that a paid board of five members could save money—millions it is claimed—there will probably never be a time when keen discernment will not disclose some place where economies may be effected without loss to the service. The present Board

of Education has devoted much time to this subject, but it is doubtful whether they will ever measure up to the standard set by the Comptroller for his paid board, for it is recognized that mere refraining from spending money does not necessarily constitute economy. The present board therefore chooses to proceed with the patient wisdom that goes with medicine, rather than the ruthlessness that goes with surgery.

5. DRAFTING REGULAR DAY SCHOOL TEACHERS FOR SUMMER WORK

There is a matter of principle involved in this proposition which perhaps ordinarily would not concern the committee, and were it not for the fact that the Comptroller referred to it at some length, nothing would be said regarding it. It is a fact, as we all know, that the Board of Estimate and Apportionment disallowed the item for teachers' salaries in Vacation Schools. The Comptroller stated that the main purpose of the Board of Estimate and Apportionment in disallowing the request for \$76,152 was not to save money, but to compel regular day school teachers to lengthen out their service.

The Comptroller states that there were "32" of these schools employing "772 out of the thousands of teachers employed." The inference is that all of the teachers were regular day school teachers who sought service in the vacation schools. Correctly speaking there were 33 regular vacation schools conducted in 1914, and one vacation trade school, and one school with opportunity classes only, and a school for the mentally defective children, a total of 36 schools. There were 742 persons (not 772 as the Comptroller states) including principals in these 36 schools. Out of the 742 persons, 406 had been regular day school teachers. It was, therefore, unlikely from the start that volunteers could be obtained for this service.

The Comptroller strongly advocates compulsory service, and he quotes in this respect abstracts from the annual reports of City Superintendent Maxwell and the United States Commissioner of Education. There are many who favor a lengthening of the school year, but, if I apprehend their reasoning correctly, it is not that they desire to force the teachers to serve a longer period of time at the same compensation, but that the schools shall be kept open for the benefit of the pupils. In other words, the good of the pupils, not the mulcting of the teachers, is the purpose. The Comptroller argues that because teachers in New York City are paid on an annual basis that it is proper and appropriate for the Board of Education to compel this service. These remarks raise the question as to the basis upon which teachers' pay has been fixed. From time immemorial the school year in the City of New York has been as it now is. It is idle, therefore, to contend that, with all of the intensive attention which has been given to teachers' salaries, the fact has been lost sight of that their salaries covered less than a year's service.

Aside from the legality of the question, which is open to serious doubt, and aside from the impossibility of making equitable assignments of

teachers for the summer work, there is a taint of sharp practice in the suggestion of compelling service. The Board of Education is considering this proposition. It is unwilling as a matter of technical right (assuming that such right exists) to impose compulsory service in a field which has always been considered separate and distinct from the regular duties of teachers, and for which it has been considered proper and equitable to pay extra compensation. The practice in New York City, it is believed, is general throughout the country where summer service has been carried on. If these activities are worth conducting, they are worth their cost.

RELATIONS BETWEEN THE BOARD OF ESTIMATE AND APPORTIONMENT AND THE BOARD OF EDUCATION

The Comptroller states that there has been friction between the Board of Estimate and Apportionment and the Board of Education, and that there probably always will be while the law remains as it is. Let us, therefore, examine the statutes with a view to locating responsibility for this unfortunate condition.

The following specific provisions of law appear in the educational chapter of the Greater New York Charter:

The present Board of Education succeeded to all the powers, duties and functions of the school boards and became subject to such further functions and duties as are provided by the Greater New York Charter. (Section 1058.)

"All moneys raised for educational purposes * * * shall be raised in two funds. * * * The Special School Fund shall contain and embrace all money * * * not comprised in the General School Fund. * * * It shall be the duty of the Board of Estimate and Apportionment and of the board of aldermen to indicate in the budget in raising the special school fund the respective amounts thereof which shall be available for use in the *several boroughs*. The general school fund shall be raised in *bulk* and for the city at large. The board of education shall have *power to administer and shall administer* all moneys *appropriated or available* for educational purposes." (Section 1060.)

"There shall be * * * a board of education which shall have the *management and control* of the public schools and of the public school system of the city, subject to the general statutes of the State relating to public schools and public school instruction, and to the provisions of this act." (Section 1061.)

"For the purposes of this Chapter, the board of education * * * shall possess the powers and privileges of a corporation." (Section 1062.)

"The board of education shall *administer* all moneys *appropriated or available* * * * subject to the general provisions of this act relating to the audit and payment of salaries and other claims by the department of finance." (Section 1064.)

(Please observe that the Comptroller can only refuse upon the ground of fraud—vide "Gunnison" decision to pay claims admitted by the Board of Education.)

"The board of education shall have power, subject to the provisions of law and of this act, to enact by-laws, rules and regulations for the proper *execution of all duties* devolved upon the board * * * for *regulating the manner or making disbursements* from any of the funds apportioned

to *any* borough (*i. e.*, the special school fund) for school purposes, for the proper execution of all powers vested in it by law, and for the promotion of the *welfare* and *best interests* of the public schools and the public school system of the city in the matters committed to its care." (Section 1068.)

In addition to the above provisions of the Charter of the City of New York, Section 220 of the State Education Law provides:

(Boards of Education corporate bodies)

"The Board of Education of each union free school district or *city* is hereby created a body corporate. * * *"

It appears that the principal relationship between the Board of Estimate and Apportionment and the Board of Education is on the question of funds. The law provides that no moneys can be raised for educational purposes except they be raised in *two* funds; that the General School Fund must be raised in bulk; that the Special School Fund shall be segregated only to the extent of indicating the amounts thereof which are available for use in the several boroughs; and that not only has the Board of Education *power to administer* these funds, but it *shall administer* them, this latter provision appearing twice in the law.

It is plain that, when the Board of Estimate and Apportionment adopts minute segregations within these two funds, they do, by that act, administer the funds, a function which the law imposes upon the Board of Education, and denies to the Board of Estimate and Apportionment. Now in what manner has the Board of Estimate and Apportionment obeyed the plain provisions of statute? First, for some years, the Board of Estimate and Apportionment, in granting the General School Fund, sought to condition the allowance in excess of three mills upon the acceptance by the Board of Education of an apportionment of the entire General School Fund, by items, in amounts stipulated by the Board of Estimate and Apportionment. They continue to "recommend" an apportionment despite an opinion of the Corporation Counsel that they are without authority to make such segregation. It is true that the Board of Education has not always followed precisely the apportionment of the Board of Estimate and Apportionment. This has been one of the causes of dissension between the two bodies,

In the Special School Fund it has become the practice of the Board of Estimate and Apportionment to grant many items aside from the borough segregations. For example, there are 131 separate segregations in the Special School Fund for 1915, and, in addition to salary accounts, these are again subdivided into what are known as "schedule lines," some 449 in number. Resolutions adopted by the Board of Estimate and Apportionment give each one of these schedule lines and segregations the force and effect of a separate appropriation, from which the Board of Education may not deviate except by consent of the Board of Estimate and Apportionment. The Special School Fund for the year 1915 is thus scattered among 580 items, whereas under the plain terms of the statutes the

Board of Estimate and Apportionment is limited to indicating the amounts "which shall be available for use in the several boroughs." This minute segregation leads to much loss of time, and we frequently find ourselves almost hopelessly barred and circumscribed; accomplishment lags and waits upon a multiplicity of resolutions of the Board of Education and the Board of Estimate and Apportionment.

Under the circumstances, is not the Board of Estimate and Apportionment rather completely administering the Special School Fund? Surely the Board of Education is not "administering" these "moneys appropriated or available for educational purposes" or "regulating the manner of making disbursements" from these funds.

In addition, certain of the functions of the Board of Education have been wrested from it by the financial authorities. As, for instance, the matter of leasing buildings, lighting schools, submission of plans and specifications for new buildings to other departments, etc.

In both the Moore and Goodnow-Howe school inquiry reports the stand was taken that the Board of Estimate and Apportionment in the matter of attempted control of funds and diversion of educational functions was exceeding its legal authority.

CONCLUSION

It is important that constitutional provisions be prepared with deliberation, that they express the knowledge and experience of law and practice, that they be passed without reference to passing judgment or personal opinion. Therefore, I believe that upon this committee there has been laid a peculiar duty, which is to guard the welfare of the common schools against the dangers and disputes engendered by political and administrative changes in our cities. I believe that whatever provisions may be made, it should be established that:

1. EDUCATION OF THE CHILDREN OF THIS STATE SHALL BE A FUNCTION OF THIS STATE AND UNDER THE CONTROL OF THE STATE.
2. THE LEGISLATURE SHALL PROVIDE FOR THE MAINTENANCE AND SUPPORT OF A SYSTEM OF FREE COMMON SCHOOLS WHERE THE CHILDREN OF THIS STATE MAY BE EDUCATED.
3. THE LEGISLATURE BY APPROPRIATE LEGISLATION SHALL FURTHER PROVIDE THAT BOARDS OF EDUCATION OR OTHER LIKE BODIES FOR EACH AND EVERY CITY SHALL BE AN INTEGRAL PART OF SUCH STATE EDUCATIONAL SYSTEM.
4. ALL FUNDS FOR EDUCATIONAL PURPOSES SHALL BE RAISED BY SEPARATE TAX AT A RATE AND IN A MANNER TO BE PRESCRIBED BY THE LEGISLATURE.
5. NO PROVISION OF THIS CONSTITUTION SHALL BE INTERPRETED AS ALIENATING FROM THE STATE, THE POWER OF CONTROLLING AND ADMINISTERING THE SYSTEM OF COMMON SCHOOLS OR OF OTHERWISE LEGISLATING AND PROVIDING THEREFOR.

APPENDIX 1

PROVISIONS AFFECTING EDUCATION IN
CONSTITUTIONS OF

Alabama	Nebraska
Arizona	Nevada
Arkansas	New Hampshire
California	New Jersey
Colorado	New Mexico
Connecticut	New York
Delaware	North Carolina
Florida	North Dakota
Georgia	Ohio
Idaho	Oklahoma
Illinois	Oregon
Indiana	Pennsylvania
Iowa	Rhode Island
Kansas	South Carolina
Kentucky	South Dakota
Louisiana	Tennessee
Maine	Texas
Maryland	Utah
Massachusetts	Vermont
Michigan	Virginia
Minnesota	Washington
Mississippi	West Virginia
Missouri	Wisconsin
Montana	Wyoming

ALABAMA CONSTITUTION—1908

Article XIV

256. The Legislature shall establish, organize and maintain a liberal system of public schools throughout the State for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein, and shall be so apportioned to the schools in the districts or townships in the counties as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. Separate schools shall be provided for white and colored children, and no child of either race shall be permitted to attend a school of the other race.

257. The principal of all funds arising from the sale or other disposition of lands or other property, which has been or may hereafter be granted or entrusted to this State or given by the United States for educational purposes shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific object of the original grants or appropriations.

258. All lands or other property given by individuals, or appropriated by the State for educational purposes and all estates of deceased persons who may die without leaving a will or heir shall be faithfully applied to the maintenance of the public schools.

259. All poll taxes collected in this state shall be applied to the support of the public schools in the respective counties where collected.

260. The income arising from the Sixteenth Section trust fund, the surplus revenue fund, until it is called for by the United States government,

and the funds enumerated in Sections 257 and 258 of this Constitution, together with a special annual tax of thirty cents on each one hundred dollars of taxable property in this State, which the Legislature shall levy, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the Legislature to increase the public school fund from time to time as the necessity therefor, and the condition of the treasury and the resources of the State may justify; provided, that nothing herein contained shall be so construed as to authorize the Legislature to levy in one year a greater rate of State taxation for all purposes, including schools, than sixty-five cents on each one hundred dollars' worth of taxable property; and provided further that nothing herein contained shall prevent the Legislature from first providing for the payment of bonded indebtedness of the State and interest thereon out of all the revenues of the State.

261. Not more than four per cent. of all moneys raised or which may hereafter be appropriated for the support of public schools, shall be used or expended otherwise than for the payment of teachers employed in such schools; provided, that the Legislature may, by a vote of two-thirds of each House, suspend the operation of this section.

262. The supervision of the public schools shall be vested in a Superintendent of Education, whose powers, duties and compensation shall be fixed by law.

263. No money raised for the support of the public schools shall be appropriated to or used for the support of any sectarian or denominational school.

264. The State University shall be under the management and control of a board of trustees, which shall consist of two members from the congressional district in which the University is located, one from each of the other congressional districts of the State, the superintendent of education and the governor, who shall be ex-officio president of the board. The members of the board of trustees as now constituted shall hold office until their respective terms expire under existing law, and until their successors shall be elected and confirmed as hereinafter required. Successors to those trustees whose terms expire in 1902 shall hold office until 1907; successors to those trustees whose terms expire in 1904 shall hold office until 1911; successors to those trustees whose terms expire in 1906 shall hold office until 1915; and thereafter their successors shall hold office for a term of 12 years. When the term of any member of such board shall expire, the remaining members of the board shall by secret ballot elect his successor; provided that any trustee so elected shall hold office from the date of his election until his confirmation or rejection by the senate, and if confirmed, until the expiration of the term for which he was elected, and until his successor is elected. At every meeting of the legislature the Superintendents of Education shall certify to the senate the names of all who shall have been so elected since the last session of the legislature, and the senate shall confirm or reject them, as it shall determine is for the best interest of the University. If it rejects the names of any members, it shall thereupon elect trustees in the stead of those rejected. In case of a vacancy on said board by death or resignation of a member, or from any cause other than the expiration of his term of office, the board shall elect his successor who shall hold office until the next session of the legislature. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

265. After the ratification of this constitution there shall be paid out of the treasury of this State at the time and in the manner provided by law the sum of not less than thirty-six thousand dollars per annum as

interest on the funds of the University of Alabama heretofore covered into the treasury for the maintenance and support of said institution; provided that the legislature shall have the power at any time they deem proper for the best interest of said University to abolish the military system of said institution, or reduce the said system to a department of instruction, and that such action on the part of the legislature shall not cause any diminution of the amount of the annual interest payable out of the treasury for the support and maintenance of said university.

266. The Ala. Polytechnic Institute, formerly called the Agricultural and Mechanical College, shall be under the management and control of a board of trustees, which shall consist of two members from the congressional district in which the institute is located, and one from each of the other congressional districts of the state, the state superintendent of education and the governor, who shall be ex-officio president of the board. The trustees shall be appointed by the governor, by and with the consent and advice of the senate, and shall hold office for a term of twelve years and until their successors shall be appointed and qualified. The board shall be divided into three classes, as nearly equal as may be, so that one-third may be chosen quadriennially. Vacancies occurring in the office of trustees from death or resignation, and the vacancies regularly occurring in the year 1905 shall be filled by the governor and such appointees shall hold office until the next meeting of the legislature. Successors to those trustees whose terms expire in 1903 shall hold office until 1911; successors to those trustees whose terms expire in 1905, shall hold office until 1915, and successors to those whose terms expire in 1907 shall hold office until 1919. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duty as such.

267. The legislature shall not have power to change the location of the state university or the Ala. Poly. Inst. or the Ala. School for the Deaf and the Blind, or the Ala. Girls' Industrial School; as now established by law, except upon a vote of two-thirds of the legislature taken by yeas and nays and entered upon the journals.

268. The legislature shall provide for taking a school census by townships and districts throughout the state not oftener than once in two years, and shall provide for the punishment of all persons or officers making false or fraudulent remunerations and returns, provided the state superintendent of education may order and supervise the taking of a new census in any township, district, or county, whenever he may have reasonable cause to believe that false or fraudulent returns have been made.

269. The several counties in this state shall have power to levy and collect a special tax not exceeding ten cents on each one hundred dollars of taxable property in such counties, for the support of public schools; provided that the rate of such tax, the time it is to continue, and the purpose thereof, shall have been first submitted to a vote of the qualified electors of the county, and voted for by three-fifths of those voting at such elections; but the rate of such special tax shall not increase the rate of taxation, state and county combined, in any one year to more than \$1.25 on each one hundred dollars of taxable property, excluding, however, all special county taxes for public buildings, roads, bridges and the payment of debts existing at the ratification of the constitution of 1875. The funds arising from such special school tax shall be so apportioned and paid through the proper school officials to the several schools in the townships and districts in the county that the school terms of the respective schools shall be extended by such supplement as nearly the same length of time as practicable; provided that this section shall not apply to the cities of Decatur, New Decatur, and Cullman.

270. The provisions of this article and of any act of the legislature passed in pursuance thereof to establish, organize and maintain a system of public schools throughout the state shall apply to Mobile County only so far as to authorize and require the authority designated by law to draw the portions of the fund to which their county shall be entitled for school purposes, and to make reports to the superintendent of education as may be prescribed by law, and all special incomes and powers of taxation as now authorized by law for the benefit of public schools in said county shall remain undisturbed until otherwise provided by the legislature; provided that separate schools for each race shall always be maintained by said authorities.

NOTE:—There have been no other amendments. See letters from Secretary of State, January 23, 1911, December, 1913.

ARIZONA CONSTITUTION—1914

Article XI

Section 1. The legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public-school system, which system shall include kindergarten schools, common schools, high schools, normal schools, industrial schools, and a university (which shall include an agricultural college, a school of mines, and such other technical schools as may be essential, until such time as it may be deemed advisable to establish separate State institutions of such character). The legislature shall also enact such laws as shall provide for the education and care of the deaf, dumb, and blind.

Section 2. The general conduct and supervision of the public school system shall be vested in a State board of education, a State superintendent of public instruction, county school superintendents, and such governing boards for the State institutions as may be provided by law.

Section 3. The State board of education shall be composed of the following members: The governor, the superintendent of public instruction, the president of the university, and principals of the State normal schools, a principal of a high school, and a county superintendent of schools, to be appointed by the governor. The powers and duties of the board shall be such as prescribed by law. The members of the board shall serve without pay, but all their necessary expenses incurred in attending meetings of the board, and for printing, shall be provided for by law.

Section 4. The State superintendent of public instruction shall be a member and secretary of the State board of education and ex-officio, a member of any other board having control of public instruction in any State institution. His powers and duties shall be prescribed by law.

Section 5. The regents of the university and the governing boards of other State educational institutions shall be appointed by the governor, except that the governor shall be, ex-officio, a member of the board of regents of the university.

Section 6. The university and all other State educational institutions shall be open to students of both sexes, and the instruction furnished shall be as nearly free as possible.

The legislature shall provide for a system of common schools, by which a free school shall be established and maintained in every school district for at least six months in each year, which school shall be open to all pupils between the ages of 6 and 21 years.

Section 7. No sectarian instruction shall be imparted in any school or State educational institution that may be established under this constitution, and no religious or political test or qualification shall ever be required

as a condition of admission into any public educational institution of the State as teacher, student or pupil; but the liberty of conscience hereby secured shall not be so construed as to justify practices or conduct inconsistent with the good order, peace, morality, or safety of the State, or with the rights of others.

Section 8. A permanent State school fund for the use of the common schools shall be derived from the sale of public school lands or other public lands specified in the enabling act approved June 20, 1910; from all estates or distributive shares of estates that may escheat to the State; from all unclaimed shares and dividends of any corporation incorporated under the laws of Arizona; and from all gifts, devises, or bequest made to the State for general educational purposes.

The income derived from the investment of the permanent State school fund, and from the rental derived from school lands, with such other funds as may be provided by law shall be apportioned annually to the various counties of the State in proportion to the number of pupils of school age residing therein.

Section 9. The amount of this apportionment shall become a part of the county school fund, and the legislature shall enact such laws as will provide for increasing the county fund sufficiently to maintain all the public schools of the county for a minimum term of six months in every school year. The laws of the State shall enable cities and towns to maintain free high schools, industrial schools, and commercial schools.

Section 10. The revenue for the maintenance of the respective State educational institutions shall be derived from the investment of the proceeds of the sale, and from the rental of such lands as have been set aside by the enabling act approved June 20, 1910, or other legislative enactment of the United States for the use and benefit of the respective State educational institutions. In addition to such income the legislature shall make such special appropriations as shall provide for their development and improvement.

CONSTITUTION OF ARKANSAS, AMENDED TO 1906

Article XIV

Education

Section 1. Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the State shall ever maintain a general, suitable and efficient system of free schools, whereby all persons in the State, between the ages of six and twenty-one years, may receive gratuitous instruction.

Section 2. No money or property belonging to the public school fund or to this State, for the benefit of schools or universities shall ever be used for any other than for the respective purposes to which it belongs.

Section 3. The general assembly shall provide by general laws for the support of common schools by taxes, which shall never exceed in any one year *two mills* on the dollar of the taxable property of the State; and by an annual per capita tax of one dollar, to be assessed on every male inhabitant of this State, over the age of twenty-one years; PROVIDED, The general assembly may, by general law, authorize school districts to levy, by a vote of the qualified electors of such district, a tax, not to exceed *five mills* on the dollar in any one year for school purposes; PROVIDED FURTHER, That no such tax shall be appropriated to any other purpose, nor to any other district than that for which it was levied.

Section 4. The supervision of public schools, and the execution of the

laws regulating the same, shall be vested in and confided to, such officers as may be provided for by the general assembly.

(Amendment September 3, 1906.)

"ARTICLE XIV, Section 3. The general assembly shall provide by general laws for the support of common schools by taxes, which shall never exceed in any one year *three mills* on the dollar on the taxable property of the State, and by an annual per capita tax of one dollar, to be assessed on every male inhabitant of this State over the age of twenty-one years. Provided the general assembly may, by general law, authorize school districts to levy by a vote of the qualified electors of such district a tax not to exceed seven mills on the dollar in any one year for school purposes. Provided further, that no such tax shall be appropriated to any other purpose nor to any other district than that for which it was levied."

CALIFORNIA CONSTITUTION—AMENDED TO NOVEMBER 5, 1912

Article IX

Encouragement of Education.

Section 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

Superintendent of Public Instruction

Section 2. A Superintendent of Public Instruction shall, at each gubernatorial election after the adoption of this Constitution, be elected by the qualified electors of the State. He shall receive a salary equal to that of the Secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

County Superintendent of Schools

Section 3. A superintendent of schools for each county shall be elected by the qualified electors thereof at each gubernatorial election: PROVIDED, that the Legislature may authorize two or more counties to unite and elect one superintendent for the counties so uniting.

State School Fund

Section 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of common schools which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new States under an act of Congress distributing the proceeds of the public lands among the several States of the Union, Approved A. D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted, or may have been granted, by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

Common Schools, System of

Section 5. The legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at

least six months in every year, after the first year in which a school has been established.

Public School System and Tax

Section 6. The public school system shall include day and evening elementary schools, and such day and evening secondary schools, normal schools and technical schools as may be established by the legislature, or by municipal or district authority. The entire revenue derived from the State School Fund and from the General State School Tax shall be applied exclusively to the support of day and evening elementary schools; but the Legislature may authorize and cause to be levied a special State school tax, for the support of day and evening secondary schools and technical schools, or either of such schools, included in the public school system and all revenue derived from such special tax shall be applied exclusively to the support of the schools for which such special tax shall be levied. (Amendment adopted November 3, 1908.)

State Board of Education—Text Books, County Boards of Education

Section 7. The Governor, the Superintendent of Public Instruction, the President of the University of California, and the professor of pedagogy therein and the principals of the State normal schools shall constitute the State Board of Education, and shall compile, or cause to be compiled and adopt a uniform series of text-books for use in the common schools throughout the State.

The State board may cause such text-books when adopted, to be printed, and published by the Superintendent of State Printing, at the State Printing Office; and when so printed and published, to be distributed and sold at the cost price of printing, publishing and distributing the same. The text-books, so adopted, shall continue in use not less than four years, without change or alteration whatsoever which will require or necessitate the purchase of new books by such pupils, and said State board shall perform such other duties as may be prescribed by law. The Legislature shall provide for a board of education in each county in the State. The county superintendents and the county boards of education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdiction. (Amendment adopted October 10, 1911.)

Amended November 5, 1912.

Section 7. The legislature shall provide for the appointment or election of a State board of education, and said board shall provide, compile or cause to be compiled, and adopt, a uniform series of text-books for use in the day and evening elementary schools throughout the State. The State board may cause such text books, when adopted, to be printed and published by the superintendent of State printing, at the State printing office; and wherever and however such text books may be printed and published, they shall be furnished and distributed by the State free of cost or any charge whatever, to all children attending the day and evening elementary schools of the State, under such conditions as the legislature shall prescribe. The text books, so adopted, shall continue in use not less than four years, without change or alteration whatsoever which will require or necessitate the furnishing of new books to such pupils, and said State board shall perform such other duties as may be prescribed by law. The legislature shall provide for a board of education in each county in the State. The county superintendents and the county boards of education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions.

Sectarian Schools—Appropriating Money for, Prohibited

Section 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted directly or indirectly, in any of the common schools of this State.

University of California

Section 9. The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the Organic Act creating the same, passed March twenty-third, eighteen hundred and sixty-eight (and the several acts amendatory thereof), subject only to such legislative control as may be necessary to insure compliance with the term of its endowments, and the proper investment and security of its funds. It shall be entirely independent of all political or sectarian influence, and kept free therefrom in the appointment of its regents, and in the administration of its affairs; PROVIDED, that all moneys derived from the sale of the public lands donated to this State by Act of Congress, approved July second, eighteen hundred and sixty-two (and the several acts amendatory thereof), shall be invested as provided by said acts of Congress, and the interest of said moneys shall be inviolably appropriated to the endowment, support, and maintenance of at least one college of agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics) to teach such branches of learning as are related to scientific and practical agriculture and the mechanic arts, in accordance with the requirements and conditions of said acts of Congress, and the legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart, shall be diminished or lost, the State shall replace such portion so lost or misappropriated, so that the principal thereof shall remain forever undiminished. No person shall be debarred admission to any of the collegiate departments of the University on account of sex.

Leland Stanford Junior University

Section 10. The trust and estates created for the founding, endowment and maintenance of the Leland Stanford Junior University, under and in accordance with "An Act to Advance Learning," etc., approved March ninth, eighteen hundred and eighty-five, by the endowment grant executed by Leland Stanford and Jane Lanthrop Stanford on the eleventh day of November, A. D. eighteen hundred and eighty-five, and recorded in liber eighty-three of deeds, at page twenty-three, *et. seq.*, records of Santa Clara County, and by the amendments of such grant, and by gifts, grants, bequests and devises supplementary thereto, and by confirmatory grants, are permitted, approved and confirmed. The board of trustees of the Leland Stanford Junior University, as such, or in the name of the institution, or by other intelligible designation of the trustees of the institution, may receive property, real or personal, and wherever situated, by gift, grant, devise, or bequest for the benefit of the institution, or of any department thereof, and such property, unless otherwise provided, shall be held by the trustees of the Leland Stanford Junior University upon the trust provided for in the grant founding the university, and amendments thereof, and grants, bequests and devises supplementary thereto. The legislature, by special act, may grant to the trustees of the Leland Stanford Junior University corporate powers and privileges, but it shall not thereby alter

their tenure, or limit their powers or obligations as trustees. All property now or hereafter held in trust for the founding, maintenance or benefit of the Leland Stanford Junior University, or of any department thereof, may be exempted by special act from State taxation, and all personal property so held, the Palo Alto farm as described in the endowment grant to the trustees of the university, and all other real property so held and used by the university for educational purposes exclusively, may be similarly exempted from county and municipal taxation; PROVIDED, that residents of California shall be charged no fees for tuition unless such fees be authorized by act of the legislature. (New section, adopted November 6, 1900.)

California School of Mechanical Arts

Section 11. All property now or hereafter belonging to "The California School of Mechanical Arts," an institution founded and endowed by the late James Lick to educate males and females in the practical arts of life, and incorporated under the laws of the State of California, November 23, 1885, having its school buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The legislature may modify, suspend and revive at will the exemption from taxation herein given. (New section, adopted November 6, 1900.)

California Academy of Sciences

Section 12. All property now or hereafter belonging to the "California Academy of Sciences," an institution for the advancement of science and maintenance of a free museum, and chiefly endowed by the late James Lick, and incorporated under the laws of the State of California, January 16, 1871, having its buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The legislature may modify, suspend and revise at will the exemption from taxation herein given. (New section, adopted November 8, 1904.)

Cogswell Polytechnical College

Section 13. All property now or hereafter belonging to the Cogswell Polytechnical College, an institution for the advancement of learning incorporated under the laws of the State of California, and having its buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The legislature may modify, suspend and revive at will the exemption from taxation herein given. (New section, adopted November 6, 1906.)

A proposed amendment to the Constitution entitled "Adoption and Amendment of the Municipal Charter," providing that any city, state or county containing a population of more than 3,500 inhabitants, may adopt charters subject to the permission of the legislature and CONSISTENT WITH AND SUBJECT TO THIS CONSTITUTION, was adopted in 1914.

(NOTE—Even in giving this power, the municipalities would have to record the provision for State control contained in the constitution.)

(An amendment to the constitution exempting educational institutions from taxation was adopted in 1914.)

CONSTITUTION OF COLORADO—AMENDED TO 1914

Article IX

Education

Section 1. The general supervision of the public schools of the State shall be vested in a board of education, whose powers and duties shall be prescribed by law; the superintendent of public instruction, the secretary of state, and the attorney-general shall constitute the board, of which the superintendent of public instruction shall be president.

Section 2. The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the State wherein all residents of the State between the ages of six and twenty-one years may be educated gratuitously. One or more public schools shall be maintained in each school district within the State at least three months in each year; any school district failing to have such school shall not be entitled to receive any portion of the school fund for that year.

Section 3. The public school fund of the State shall forever remain inviolate and intact; the interest thereon only shall be expended in the maintenance of the schools of the State, and shall be distributed among the several counties and school districts of the State in such manner as may be prescribed by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated except as herein provided. The State treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The State shall supply all losses thereof that may in any manner occur.

Section 4. Each county treasurer shall collect all school funds belonging to his county, and the several school districts therein, and disburse the same to the proper districts upon warrants drawn by the county superintendent, or by the proper district authorities as may be provided by law.

Section 5. The public school fund of the State shall consist of the proceeds of such lands as have heretofore been, or may hereafter be granted to the State by the General Government for educational purposes, all estates that may escheat to the State; also all other grants, gifts or devises that may be made to this State for educational purposes.

Section 6. There shall be a county superintendent of schools in each county whose term of office shall be two years, and whose duties, qualifications, and compensation shall be prescribed by law. He shall be ex-officio commissioner of lands within his county, and shall discharge the duties of said office under the direction of the State Board of Land Commissioners, as directed by law.

Section 7. Neither the general assembly, nor any county, city, town, township, school district or other public corporation shall ever make any appropriation, or pay from any school fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purposes, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church or for any sectarian purpose.

Section 8. No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the State, either as teacher or student and no teacher or student of any such institution shall ever be required to attend or participate in any

religious service whatsoever. No sectarian tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or classification of pupils be made on account of race or color.

Section 9. The governor, superintendent of public instruction, secretary of state and attorney-general shall constitute the State board of land commissioners, who shall have the direction, control and disposition of the public lands of the State, under such regulations as may be prescribed by law.

Section 10. It shall be the duty of the State board of land commissioners to provide for the location, protection, sale or other disposition of all lands heretofore, or which may hereafter be, granted to the State by the General Government, under such regulations as may be prescribed by law, and in such manner as will secure the maximum possible amount therefor. No law shall ever be passed by the general assembly granting any privileges to persons who may have settled upon such public lands subsequent to the survey thereof by the General Government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished, directly or indirectly. The general assembly shall, at the earliest practicable period, provide by law that the several grants of land made by Congress to the State shall be judiciously located and carefully preserved and held in trust subject to disposal for the use and benefit of the respective objects for which said grants of land were made and the general assembly shall provide for the sale of said lands from time to time, and for the faithful application of the proceeds thereof in accordance with the terms of said grants.

Section 11. The general assembly may require, by law, that every child of sufficient mental and physical ability shall attend the public school during the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means.

Section 12. There shall be elected by the qualified electors of the State at the first general election under this constitution, six regents of the university, who shall, immediately after their election, be so classified, by lot, that two shall hold office for the term of two years, two for four years and two for six years; and every two years after the first election there shall be elected two regents of the university whose term of office shall be six years. The regents thus elected, and their successors, shall constitute a body corporate, to be known by the name and style of "THE REGENTS OF THE UNIVERSITY OF COLORADO."

Section 13. The Regents of the University shall, at their first meeting, or as soon thereafter as practicable, elect a president of the university, who shall hold office until removed by the board of regents for cause; he shall be ex-officio a member of the board, with the privilege of speaking, but not of voting, except in cases of a tie; he shall preside at the meetings of the board, and be the principal executive officer of the university, and a member of the faculty thereof.

Section 14. The board of regents shall have the general supervision of the university, and the exclusive control and direction of all the funds of, and appropriations to, the university.

Section 15. The general assembly shall, by law, provide for organization of school districts of convenient size, in each of which shall be established a board of education, to consist of three or more directors, to be elected by the qualified electors of the district. Said directors shall have control of instruction in the public schools of their respective districts.

Section 16. Neither the general assembly nor the State board of education shall have power to prescribe text-books to be used in the public schools.

Under amendment passed in 1902 certain municipal corporations were consolidated into a "single body" politic and corporate, by the name of "The City and County of Denver."

Section 5 of said amendment provided as follows (last paragraph): No charter, amendment or measure adopted or defeated under the provisions of this amendment shall be amended, repealed or revived, except by petition and electoral vote. And no such charter, charter amendment or measure shall diminish the tax rate for State purposes fixed by act of the general assembly, or interfere in any wise with the collection of State taxes.

Section 7. *School Districts Consolidated* (from said amendment).

The city and county of Denver shall alone always constitute one school district, to be known as District No. 1, but its conduct, affairs and business shall be in the hands of a board of education, consisting of such numbers, elected in such manner as the general school laws of the State shall provide, and until the first election under said laws of a full board of education, which shall be had at the first election held after the adoption of this amendment, all the directors of school district No. 1 and the respective presidents of the school boards of school districts Nos. 2, 7, 17 and 21 at the time this amendment takes effect, shall act as such board of education, and all districts or special charters now existing are hereby abolished.

The said board of education shall perform all the acts and duties required to be performed for said district by the general laws of the State. Except as inconsistent with this amendment, the general school laws of the State shall, unless context evinces a contrary intent, be held to extend and apply to the said District No. 1."

Upon the annexation of any contiguous municipality which shall include a school district or districts, or any part of a district, said school district or districts or part shall be merged in said "District No. 1," which shall then own all the property thereof, real and personal, located within the boundaries of such annexed municipality, and shall assume and pay all the bonds, obligations and indebtedness of each of the said included school districts, and a proper proportion of those partially included districts.

Provided, however, that the indebtedness, both principal and interest, which any school district may be under at the time when it becomes a part of this amendment or by annexation of said "District No. 1" shall be paid by said school district so owing the same by a special tax, to be fixed and certified by the Board of Education to the council, which shall levy the same upon the property within the boundaries of such district respectively, as the same existed at the time such district becomes a part of said "District No. 1," and in case of partially included districts, such tax shall be equitably apportioned upon the several parts thereof.

Section 8. Anything in the constitution of the State in conflict or inconsistent with the provisions of this amendment is hereby declared to be inapplicable to the matters and things by this amendment covered and provided for.

CONNECTICUT CONSTITUTION—In force January 1, 1914

Article VIII

Section 1. The charter of Yale College, as modified by agreement with the corporation thereof, in pursuance of an Act of the General Assembly, passed in May, 1792, is hereby confirmed.

Section 2. The fund, called the School fund, shall remain a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public, or common schools, throughout the State, and for the equal benefit of all the people thereof. The value and amount

of said fund shall as soon as practicable, be ascertained in such manner as the General Assembly may prescribe, published, and recorded in the Controller's office; and no law shall ever be made, authorizing said fund to be diverted to any other use than the encouragement and support of public, or common schools, among the several school societies, as justice and equity shall require.

CONSTITUTION OF DELAWARE—1897

Article IX

Education

Section 1. The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools, and may require by law that every child, not physically or mentally disabled, shall attend the public schools, unless educated by other means.

Section 2. In addition to the income of the investments of the Public School Fund, the General Assembly shall make provision for the annual payment of not less than one hundred thousand dollars for the benefit of the free public schools, which, with the income of the investments of the Public School Fund, shall be equitably apportioned among the school districts of the state as the General Assembly shall provide; and the money so apportioned shall be used exclusively for the payment of teachers' salaries and for furnishing free text books; provided, however, that in such apportionment no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained. All other expenses connected with the maintenance of free public schools, and all expenses connected with the erection or repair of free public school buildings, shall be defrayed in such manner as shall be provided by law.

Section 3. No portion of any fund now existing, or which may hereafter be appropriated, or raised by tax, for educational purposes, shall be appropriated to or used by, or in aid of, any sectarian, church or denominational school; provided that all real or personal property used for school purposes, where the tuition is free, shall be exempt from taxation and assessment for public purposes.

Section 4. No part of the principal or income of the Public School Fund now or hereafter existing, shall be used for any other purpose than the support of free public schools.

CONSTITUTION OF FLORIDA—Amended to 1894

Article XII

Education

Section 1. The Legislature shall provide for a uniform system of public free schools, and shall provide for the liberal maintenance of the same.

Section 2. There shall be a Superintendent of Public Instruction whose duties shall be prescribed by law, and whose term of office shall be four years and until the election and qualification of his successor.

Section 3. The Governor, Secretary of State, Attorney-General, State Treasurer, and State Superintendent of Public Instruction, shall constitute a body corporate, to be known as the State Board of Education of Florida, of which the Governor shall be President, and the Superintendent of Public Instruction, Secretary. This board shall have power to remove any subordinate school officer for cause, upon notice to the incumbent; and shall have the management and investment of all State School Funds

under such regulations as may be prescribed by law, and such supervision of schools of higher grades as the law shall provide.

Section 4. The State School Fund, the interest of which shall be exclusively applied to the support and maintenance of public free schools, shall be derived from the following sources:

The proceeds of all lands that have been or may hereafter be granted to the State by the United States for public school purposes.

Appropriations by the State.

Donations to the State when the purpose is not specified.

The proceeds of escheated property or forfeitures.

Twenty-five per cent. of the sales of public lands which are now or hereafter may be owned by the State.

Section 5. The principal of the State School Fund shall remain sacred and inviolate.

Section 6. A special tax of *one mill* on the dollar of all taxable property in the State, in addition to the other means provided, shall be levied and apportioned annually for the support and maintenance of public free schools.

Section 7. Provision shall be made by law for the distribution of the interest of the State School Fund and the special tax among the several counties of the State in proportion to the number of children residing therein between the ages of six and twenty-one years (Amended, 1894).

Section 8. Each county shall be required to assess and collect annually for the support of public free schools therein, a tax of not less than *three mills* or more than *five mills* on the dollar of all taxable property in the same.

Section 9. The County School Fund shall consist, in addition to the tax provided for in section eight of this Article, of the proportion of the interest of the State School Fund and of the *one mill* State tax apportioned to the county; the net proceeds of all fines collected under the penal laws of the State within the county; all capitalization taxes collected within the county; and shall be disbursed by the County Board of Public Instruction solely for the maintenance and support of public free schools.

Section 10. The legislature may provide for the division of any county or counties into convenient school districts, and for the election biennially of three school trustees, who shall hold their office for two years, and who shall have the supervision of all the schools within the district; and for the levying and collection of a district school tax, for the exclusive use of public free schools within the district wherever a majority of the qualified electors thereof that pay a tax on real or personal property shall vote in favor of such a levy, PROVIDED, That any tax authorized by this section shall not exceed three mills on the dollar in any one year on the taxable property of the district.

Section 11. Any incorporated town or city may constitute a school district. The fund raised by section 10 may be expended in the district where levied for building or repairing school houses, for the purchase of school libraries and text-books, for salaries of teachers or for other educational purposes, so that the distribution among all the schools of the district be equitable.

Section 12. White and colored children shall not be taught in the same school, but impartial provision shall be made for both.

Section 13. No law shall be enacted authorizing the diversion or the lending of any County or District School Funds, or the appropriation of any part of the permanent or available school fund to any other than school purposes; nor shall the same, or any part thereof, be appropriated to or used for the support of any sectarian school.

Section 14. The Legislature at its first session shall provide for the

establishment, maintenance and management of such Normal Schools, not to exceed two, as the interests of public education may demand.

Section 15. The compensation of all county school officers shall be paid from the school fund of their respective counties, and all other county officers receiving stated salaries shall be paid from the general funds of their respective counties.

Amending Article XII, Section 7, 1894

Section 7. Provision shall be made by law for the apportionment and distribution of the interest on the State School Fund and all other means provided, including a special tax, for the support and maintenance of public free schools, among the several counties of the State in proportion to the average attendance upon schools in the said counties respectively.

CONSTITUTION OF GEORGIA—Amended to 1898

Article VIII

Education

Section I

Paragraph 1. There shall be a thorough system of common schools for the education of children in the elementary branches of an English education only, as nearly uniform as practicable, the expense of which shall be provided for by taxation, or otherwise. The schools shall be free to all children of the State, but separate schools shall be provided for the white and colored races.

Section II

Paragraph 1. There shall be a State School Commissioner, appointed by the Governor, and confirmed by the Senate, whose term of office shall be two years, and until his successor is appointed and qualified. His office shall be at the seat of government, and he shall be paid a salary not to exceed two thousand dollars per annum. The General Assembly may substitute for the State School Commissioner such officer, or officers, as may be deemed necessary to perfect the system of public education.

Section III

Paragraph 1. The poll tax, any educational fund now belonging to the State (except the endowment of, and debt due, to the University of Georgia), a special tax on shows and exhibitions, and of the sale of spirituous and malt liquors, which the General Assembly is hereby authorized to assess, and the proceeds of any commutation tax to military service, and all taxes that may be assessed on such domestic animals as, from their nature and habits, are destructive to other property, are hereby set apart and devoted for the support of common schools.

Section IV

Paragraph 1. Authority may be granted to counties, upon the recommendation of two grand juries, and to municipal corporations, upon the recommendation of the corporate authority, to establish and maintain public schools in their respective limits, by local taxation; but no such local laws shall take effect until the same shall have been submitted to a vote of the qualified voters in each county or municipal corporation, and approved by a two-thirds vote of the persons qualified to vote at such election; and the General Assembly may prescribe who shall vote on such question.

Section V

Paragraph 1. Existing local school systems shall not be affected by this Constitution. Nothing contained in section first of this article shall be construed to deprive schools in this State, not common schools, from participation in the educational fund of the State, as to all pupils therein taught in the elementary branches of an English education.

Section VI

Paragraph 1. The Trustees of the University of Georgia may accept bequests, donations and grants of land, or other property, for the use of said University. In addition to the payment of the annual interest on the debt due by the State to the University, the General Assembly may, from time to time, make donations thereto as the condition of the treasury will authorize. And the General Assembly may also, from time to time, make such appropriations of money as the condition of the treasury will authorize to any college or university (not exceeding one in number) now established, or hereafter to be established, in this State for the education of persons of color.

NOTE:—"The first provision incorporated in any state constitution for the establishment and maintenance of common schools was in Georgia." Const. 1777, Art. 54 (from annotation to Section 1 of Article 13 of Constitution of Oklahoma.)

CONSTITUTION OF IDAHO—Amended to 1912

Article IX

Section 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho to establish and maintain a general, uniform and thorough system of public free common schools.

Section 2. The general supervision of the State educational institutions and public school system of the State of Idaho, shall be vested in a State board of education, the membership, powers and duties of which shall be prescribed by law. The State Superintendent of Public Instruction shall be ex-officio member of said board.

(Adopted November 5, 1912.)

Section 3. The public school fund of the State shall forever remain inviolate and intact; the interest thereon only shall be expended in the maintenance of the schools of the State, and shall be distributed among the several counties and school districts of the State in such manner as may be prescribed by law. No part of this fund, principal and interest, shall ever be transferred to any other fund or used or appropriated except as herein provided. The State treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The State shall supply all losses thereof that may in any manner occur.

Section 4. The public school fund of the State shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted to the State by the general government, known as school lands, and those granted in lieu of such lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the State by the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates or distributive shares of estates that may escheat to the State; all unclaimed shares and dividends of any corporation incorporated under the laws of the State; and all other

grants, gifts, devises or bequests made to the State for general educational purposes.

Section 5. Neither the legislature, nor any county, city, town, township, school district or other public corporation shall ever make any appropriation or pay from any public fund or moneys whatever, anything in aid of any church or sectarian or religious society, or for any sectarian or religious purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution controlled by any church, sectarian or religious denomination whatsoever; nor shall any grant or donation of land, money or other personal property ever be made by the State or any such public corporation to any church or for any sectarian or religious purpose.

Section 6. No religious test of qualification shall ever be required of any person as a condition of admission into any public educational institution of the State, either as a teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. No sectarian or religious tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or classification of pupils be made on account of race or color. No books, papers, tracts or documents of a political, sectarian or denominational character shall be used or introduced in any schools established under the provisions of this Article nor shall any teacher nor any district receive any of the public school moneys in which the schools have not been taught in accordance with the provisions of this article.

Section 7 (amendment No. 14). The Governor, Superintendent of Public Instruction, Secretary of State, Attorney General and State Auditor shall constitute the State Board of Land Commissioners, who shall have the direction, control and disposition of the public lands of the State, under such regulations as may be prescribed by law.

(Adopted November 8, 1910.)

Section 8. It shall be the duty of the State board of land commissioners to provide for the location, protection, sale or rental of all lands heretofore, or which may hereafter be granted to the State by the general government, under such regulations as may be prescribed by law, and in such manner as will secure the maximum possible amount therefor: Provided, that no school lands shall be sold for less than ten dollars per acre. No law shall ever be passed by the legislature granting any privileges to persons who may have settled upon any such public lands subsequent to the survey thereof by the general government by which the amount to be derived by the sale or other disposition of such lands shall be diminished, directly or indirectly. The legislature shall, at the earliest practicable period, provide by law that the general grants of land made by Congress to the State shall be judiciously located and carefully preserved and held in trust, subject to disposal at public auction for the use and benefit of the respective objects for which said grants of land were made, and the legislature shall provide for the sale of said lands from time to time and for the sale of timber on all State lands and for the faithful application of the proceeds thereof in accordance with the terms of said grants: Provided, that not to exceed 25 sections of school lands shall be sold in any one year; and to be sold in subdivisions of not to exceed 160 acres to any one individual, company or corporation.

Section 9. The legislature may require by law that every child of sufficient mental and physical ability shall attend the public school throughout the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means.

Section 10. The location of the University of Idaho, as established by

existing laws, is hereby confirmed. All the rights, immunities, franchises and endowments heretofore granted thereto by the territory of Idaho are hereby perpetuate unto the said university. The regents shall have the general supervision of the university, and the control and direction of all the funds of, and appropriations to, the university, under such regulations as may be prescribed by law. No university lands shall be sold for less than \$10 per acre, and in subdivisions not to exceed 160 acres to any one person, company or corporation.

Section 11. The permanent educational funds, other than funds arising from the disposition of university lands belonging to the State, shall be loaned on first mortgage on improved farm lands within the State, or on State or United States bonds, under such regulations as the legislature may provide: Provided, that no loan shall be made of any amount of money exceeding one-third of the market value of the lands at the time of the loan, exclusive of buildings.

CONSTITUTION OF ILLINOIS—Amended to 1870

Article VII

Education*

1. The general assembly shall provide a thorough and efficient system of free schools whereby all children of this State, may receive a good common school education.

2. All lands, moneys, or other property, donated, granted or received for school, college, seminary or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

3. Neither the general assembly nor any county, city, town, township, school district or other public corporation shall ever make any appropriation or pay from any public fund whatsoever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money or other personal property ever be made by the State or any such public corporation to any church or for any sectarian purpose.

4. No teacher, State, county, township or district school officer shall be interested in the sale, proceeds or profits of any books, apparatus or furniture, used or to be used in any school in this State, with which such officer or teacher may be connected, under such penalties as may be provided by the general assembly.

5. There may be a county superintendent of schools in each county, whose qualifications, powers, duties, compensation and time and manner of election and term of office shall be prescribed by law.

*Section six of the Enabling Act of Congress of April 18, 1818 (3 U. S. Statutes at Large, 428), provided that the section numbered sixteen in every township or its equivalent should be granted to the State for the use of the inhabitants of such township, for the use of schools; a proposition that was accepted by the constitutional convention and gave the State the right to such numbered section of every township. It was also provided that three per cent. of the net proceeds of all lands lying within the State sold by Congress after January 1, 1819, should be appropriated by the Legislature of the State for the encouragement of learning, one-sixth of which was to be exclusively bestowed on a college or university. Unfortunately, for the State, the lands disposed of by the United States in satisfaction of military land warrants were held to be excluded from this provision (110 U. S. 471) so that up to 1895, the State had realized from this source for the permanent school fund only about one hundred and fifty thousand dollars.

CONSTITUTION OF INDIANA—Amended to 1851

Article VIII

Education

Section 1. Knowledge and learning generally diffused throughout a community, being essential to the preservation of a free government, it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific and agricultural improvement, and to provide by-law for a general and uniform system of common schools wherein tuition shall be without charge, and equally open to all.

Section 2. The common school fund shall consist of the congressional township fund, and the lands belonging thereto:

The surplus revenue fund;

The saline fund, and the lands belonging thereto;

The bank tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana;

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such seminaries; from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the State for want of heirs or kindred entitled to the inheritance;

All lands that have been or may hereafter be granted to the State, where no special purpose is expressed in the grant, and the proceeds of the sales thereof; including the proceeds of the sales of the Swamp Land granted to the State of Indiana by the act of Congress, of the 28th of September, 1850, after deducting the expense of selecting and draining the same;

Taxes on property of corporations that may be assessed by the General Assembly for Common School purposes.

Section 3. The principal of the Common School Fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of Common Schools, and to no other purpose whatever.

Section 4. The General Assembly shall invest, in some safe and profitable manner, all such portions of the Common School Fund as have not heretofore been entrusted to the several counties; and shall make provision, by law, for the distribution, among the several counties, of the interest thereof.

Section 5. If any county shall fail to demand its proportion of such interest for Common School purposes, the same shall be reinvested for the benefit of such county.

Section 6. The several counties shall be held liable for the preservation of so much of the said fund as may be entrusted to them, and for the payment of the annual interest thereon.

Section 7. All trust funds held by the State shall remain inviolate and be faithfully and exclusively applied to the purposes for which the trust was created.

Section 8. The General Assembly shall provide for the election by the voters of the State, of a State Superintendent of Public Instruction, who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

CONSTITUTION OF IOWA—Amended to 1904

Article IX

Education and School Lands

1st—Education

Section 1. The educational interests of the State, including Common Schools and other educational institutions, shall be under the management of a Board of Education, which shall consist of the Lieutenant-Governor, who shall be the presiding officer of the Board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

Section 2. No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and shall have been one year a citizen of the State.

Section 3. One member of said Board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years and until his successor is elected and qualified. After the first election under this Constitution, the Board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated, after the expiration of two years; and one-half of the Board shall be chosen every two years thereafter.

Section 4. The first session of the Board of Education shall be held at the Seat of Government, on the first Monday of December, after their election; after which the General Assembly may fix the time and place of meeting.

Section 5. The session of the Board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the Board, the Governor may order a special session.

Section 6. The Board of Education shall appoint a Secretary who shall be the executive officer of the Board, and perform such duties as may be imposed upon him by the Board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the General Assembly.

Section 7. All rules and regulations made by the Board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the Board, and when so made, published and distributed, they shall have the force and effect of law.

Section 8. The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools, and other educational institutions, that are instituted, to receive aid from the School or University Fund of this State; but all acts, rules and regulations of said Board may be altered, amended or repealed by the General Assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the Board of Education.

Section 9. The Governor of the State shall be, ex-officio, a member of said Board.

Section 10. The Board shall have no power to levy taxes, or make appropriations of money. Their contingent expenses shall be provided for by the General Assembly.

Section 11. The State University shall be established at one place without branches at any other place, and the University Fund shall be applied to that institution and no other.

Section 12. The Board of Education shall provide for the education of all the youths of the State, through a system of common schools, and such

schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, as aforesaid, may be deprived of their portion of the school fund.

Section 13. The members of the Board of Education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the General Assembly.

Section 14. A majority of the Board shall constitute a quorum for the transaction of business; but no rule, regulation, or law for the government of common schools or other educational institutions shall pass without the concurrence of a majority of all the members of the Board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the Board shall be, "Be it enacted by the Board of Education of the State of Iowa."

Section 15. At any time after the year one thousand eight hundred and sixty-three, the General Assembly shall have power to abolish or reorganize said Board of Education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

2d—School Funds and School Lands

Section 1. The educational and school funds and lands shall be under the control and management of the General Assembly of this State.

Section 2. The University lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

Section 3. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which may have been, or shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as has been or may hereafter be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

Section 4. The money which may have been or shall be paid by the persons as an equivalent from exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall from time to time provide.

Section 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved, or granted by the United States, or any person or persons, to this State, for the use of the University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said University, for

the promotion of literature, the arts and sciences, as may be authorized by the terms of such grants. And it shall be the duty of the General Assembly as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

Section 6. The financial agents of the school funds shall be the same, that by law, receive and control the State and county revenue, for other civil purposes, under such regulations as may be provided by law.

Section 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly.

CONSTITUTION OF KANSAS—Amended to 1904

Article 6

Education

Section 1. The State Superintendent of Public Instruction shall have the general supervision of the common school funds and educational interests of the State, and perform such other duties as may be prescribed by law. A Superintendent of Public Instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

Section 2. The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate and university departments.

Section 3. The proceeds of all lands that have been or may be granted by the United States to the State for the support of schools and the five hundred thousand acres of land granted to the new States under an act of Congress distributing the proceeds of public lands among the several States of the Union, approved September 4, A.D., 1841, and all estates of persons dying without heir or will, and such per cent. as may be granted by Congress on the sale of lands in this State, shall be the common property of the State, and shall be a perpetual school fund, which shall not be diminished, but the interest of which, together with all the rents of lands, and such other means as the legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools.

Section 4. The income of the State school funds shall be disbursed annually, by order of the State Superintendent, to the several county treasurers, and thence to the treasurers of the several school districts, in equitable proportion to the number of children and youth resident therein, between the ages of five and twenty-one years; provided, that no school district, in which a common school has not been maintained at least three months in each year, shall be entitled to receive any portion of such funds.

Section 5. The school-lands shall not be sold, unless such sales shall be authorized by a vote of the people at a general election; but, subject to revaluation every five years, they may be leased for any number of years, not exceeding twenty-five, at a rate established by law.

Section 6. All money which shall be paid by persons as an equivalent for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker-up; and the proceeds of fines for any breach of the penal laws, shall be exclusively applied in the several counties in which the money is paid or fines collected, to the support of common schools.

Section 7. Provision shall be made by law for the establishment, at some eligible and central point, of a State University, for the promotion of literature, and the arts and sciences, including a normal and an agricultural department. All funds arising from the sale or rents of lands granted by the United States to the State for the support of a State University, and all other grants, donations or bequests, either by the State or individuals, for such purpose, shall remain a perpetual fund, to be called the "University Fund," the interest of which shall be appropriated to the support of the State University.

Section 8. No religious sect or sects shall ever control any part of the common-school or university funds of the State.

Section 9. The State Superintendent of Public Instruction, Secretary of State and Attorney-General shall constitute a board of commissioners, for the management and investment of the school funds. Any two of said commissioners shall be a quorum.

CONSTITUTION OF KENTUCKY—Amended to 1890

Education

Section 183. The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the State.

Section 184. The bond of the Commonwealth issued in favor of the Board of Education for the sum of \$1,327,000 shall constitute one bond of the Commonwealth in favor of the Board of Education, and this bond and the \$73,500 of the stock in the Bank of Kentucky, held by the Board of Education, and its proceeds, shall be held inviolate for the purpose of sustaining the system of common schools. The interest and dividends of said fund, together with any sum which may be produced by taxation or otherwise for the purposes of common school education, shall be appropriated to the common schools, and to no other purpose. No sum shall be raised or collected for education other than in common schools until the question of taxation is submitted to the legal voters, and the majority of votes cast at said election shall be in favor of taxation; Provided, That the tax now imposed for educational purposes and for the endowment and maintenance of the Agricultural and Mechanical College shall remain until changed by law.

Section 185. The General Assembly shall make provision by law for the payment of the interest of said school fund, and may provide for the sale of the stock in the Bank of Kentucky; and in case of a sale of all or any part of said stock, the proceeds of sale shall be invested by the Sinking Fund Commissioners in other good interest bearing stocks or bonds, which shall be subject to sale and reinvestment from time to time in like manner, and with the same restrictions, as provided with reference to the sale of the said stock in the Bank of Kentucky.

Section 186. Each county in the Commonwealth shall be entitled to its proportion of the school fund on its census of pupil children for each school year; and if the pro rata share of any school district be not called for after the second school year, it shall be covered into the treasury and be placed to the credit of the school fund for general apportionment the following school year. The surplus now due the several counties shall remain a perpetual obligation against the Commonwealth for the benefit of said respective counties, for which the Commonwealth shall execute its bond, bearing interest at the rate of six per centum per annum, payable annually to the counties respectively entitled to the same, and in the proportion to which they are entitled, to be used exclusively in aid of common schools.

Section 187. In distributing the school fund no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained.

Section 188. So much of any moneys as may be received by the Commonwealth from the United States under the recent act of Congress refunding the direct tax shall become a part of the school fund, and be held as provided in section 184; but the General Assembly may authorize the use by the Commonwealth of the moneys so received or any part thereof, in which event a bond shall be executed to the Board of Education for the amount so used, which bond shall be held on the same terms and conditions and subject to the provisions of Sec. 184, concerning the bond therein referred to.

Section 189. No portion of the fund or tax now existing, or that may hereafter be raised or levied for educational purposes, shall be appropriated to or used by, or in aid of, any church, sectarian or denominational school.

CONSTITUTION OF LOUISIANA—1914

Public Education

Article 248. There shall be free colored schools for the white and colored races separately established by the General Assembly throughout the State for the education of all the children of the State between the ages of 6 and 18 years; provided that where kindergarten schools exist, children between the ages of four and six may be admitted into the said schools. All funds raised by the State for the support of public schools, except poll taxes, shall be distributed to each parish in proportion to the number of children therein between the ages of 6 and 18 years. The General Assembly shall provide for the enumeration of educable children.

Article 249. There shall be elected by the qualified electors of the State a Superintendent of Public Education, who shall hold his office for the term of four years, and until his successor is qualified. His duties shall be prescribed by law, and he shall receive an annual salary of \$5,000, payable monthly on his warrant.

Article 250. The General Assembly shall provide for the creation of a State Board and Parish Boards of Public Education. The Parish Boards shall elect a Parish Superintendent of Public Education for their respective parishes, whose qualifications shall be fixed by the Legislature and who shall be ex-officio secretary of the Parish Board. The salary of the Parish Superintendent shall be provided for by the General Assembly, to be paid out of the public school funds accruing to the respective parishes.

Article 251. The general exercises in the public schools shall be conducted in the English language; provided that the French language may be taught in those parishes or localities where the French language predominates, if no additional expense is incurred thereby.

Article 252. The funds derived from the collection of the poll tax shall be applied exclusively to the maintenance of the public schools as organized under this Constitution and shall be applied exclusively to the support of the public schools in the parish in which the same shall be collected, and shall be accounted for and paid by the collecting officer directly to the treasurer of the local school board.

Article 253. No funds raised for the support of the public schools of the State shall be appropriated to or used for the support of any private or sectarian schools.

Article 254. The school funds of the State shall consist of:

First. Not less than one and one-quarter mills of the taxes levied and collected by the State.

Second. The proceeds of taxation for school purposes as provided by this constitution.

Third. The interest on the proceeds of all public lands heretofore granted by the United States for the support of the public schools and the revenue derived from such lands as may still remain unsold.

Fourth. Of lands and other property heretofore or hereafter bequeathed, granted or donated to the State for school purposes.

Fifth. All funds and property, other than unimproved lands, bequeathed or granted to the State, not designated for any other purpose.

Sixth. The proceeds of vacant estates falling under the law to the State of Louisiana.

Article 255. The legislature may appropriate to the same funds the proceeds of public lands not designated for any other purpose, and shall provide that every parish may levy a tax for the public schools therein, which shall not exceed the entire State tax; provided that with such a tax the whole amount of parish taxes shall not exceed the limits of parish taxation fixed by this constitution.

The City of New Orleans shall make such appropriation for the support, maintenance and repair of the public schools of said city as it may deem proper, but not less than eight-tenths of one mill for any one year; and said schools shall also continue to receive from the Board of Liquidation of the city debt the amounts to which they are now entitled under the constitutional amendment adopted in the year 1892.

The police juries of the several parishes and boards of trustees and municipal councils of incorporated cities and towns (the Parish of Orleans excepted) shall levy, collect and turn over to the parish school boards of their respective parishes for the support of the public schools of their respective parishes, cities or towns, the proceeds of at least three mills of the annual tax which they are empowered to levy on each dollar of the assessed valuation of the property thereof. Provided that cities and towns that are not exempted by the terms of their charters from the payment of parish taxes and which are subjected to the similar burdens of taxation as are the parishes, shall not pay this tax, as same is included in the taxes imposed by the parish in which the town is situated, unless the parish boards of school directors of that parish certify that the needs of the school can be met by a smaller levy of such taxes.

Article 256. The Louisiana State University and Agricultural and Mechanical College, founded upon the land grants of the United States to endow a seminary of learning and a college for the benefit of agriculture and mechanical arts, now established and located in the City of Baton Rouge is hereby recognized; and all revenues derived and to be derived from the Seminary Fund, the Agricultural and Mechanical College Fund and other funds or lands donated or to be donated by the United States to the State of Louisiana for the use of a seminary of learning or a college for the benefit of agriculture or the mechanic arts, shall be appropriated exclusively to the maintenance and support of said Louisiana State University and Agricultural and Mechanical College; and the General Assembly shall make such additional appropriations as may be necessary for its maintenance and support and improvement, and for the establishment in connection with said institution of such additional scientific or literary departments as the public necessities and the well-being of the people of Louisiana may require.

The Tulane University of Louisiana, located in New Orleans, is hereby recognized as created and to be developed in accordance with the provisions of legislative act No. 43, approved July 5, 1884, and by approval of the electors made part of the constitution of the State.

Article 257. The Louisiana State Normal School, established and

located at Natchitoches; the Louisiana Industrial Institute, established and located at Lafayette; and the Southern University for the education of persons of color are hereby recognized; and the General Assembly is directed to make such appropriations from time to time as may be necessary for the maintenance, support and improvement of these institutions; provided that the appropriation for the maintenance and support of the Southern University shall not exceed \$10,000 per annum.

Article 258. The debt due by the State to the Free School Fund, declared by the constitutions of 1879 and 1898 to be the sum of \$1,130,-867.51 in principal, shall be kept on the books of the auditor and treasurer to the credit of the several townships entitled to the same; the said principal being the proceeds of the sales of lands heretofore granted by the United States for the use and support of free public schools, which amount shall be held by the State as a loan, and shall be and remain a perpetual fund, on which the State shall pay an annual interest of four per cent., and that said interest shall be paid to the several townships in the State entitled to the same in accordance with the Act of Congress, No. 68, approved February 15, 1843.

Article 259. The debt due by the State to the Seminary Fund is hereby declared to be \$136,000, being the proceeds of the sale of lands heretofore granted by the United States to this State for the use of a seminary of learning, and said amount shall be kept to the credit of said fund on the books of the auditor and treasurer of the State as a perpetual loan, and the State shall pay an annual interest of four per cent. on said amount.

Article 260. The debt due by the State to the Agricultural and Mechanical College Fund is hereby declared to be the sum of \$182,313.03, being the proceeds of the sale of lands and land scrip heretofore by the United States to this State for the use of a college for the benefit of agricultural and mechanical arts; and said amount shall be kept to the credit of said fund on the books of the auditor and treasurer of the State as a perpetual loan and the State shall pay an annual interest of five per cent. on said amount.

Article 261. All pupils in the primary grades in the public schools throughout the Parish of Orleans, unable to provide themselves with the requisite books, an affidavit to that effect having been made by one of the parents of such pupils, or if such parents be dead, then by the tutor or other person in charge of such pupils, shall be furnished with the necessary books free of expense, to be paid for out of the school fund of said parish; and the School Board of the Parish of Orleans is hereby directed to appropriate annually not less than \$2,000 for the purpose named, provided such amount be needed.

Article 227. The taxing power shall be exercised only to carry on and maintain the government of the State and the public institutions thereof, to educate the children of the State, to preserve the public health, to pay the principal and interest of the public debt, to suppress insurrection, to repel invasion or defend the State in time of war, to provide pensions for indigent Confederate soldiers and sailors and their widows, to establish markers or monuments upon the battlefields of the country commemorative of the services of Louisiana soldiers on such fields, to maintain a memorial hall in New Orleans for the collection and preservation of relics and memorials of the late Civil War, and for levee purposes, as hereinafter provided.

Amendment, 1914—Act No. 57

Section 1. Be it resolved by the General Assembly of the State of Louisiana, two-thirds of all members elected to each House concurring, that the legislature may appropriate to the same funds the proceeds of

public lands not designated or set apart for any other purpose, and shall provide that each parish may levy a tax for public schools therein which shall not exceed the entire State tax; provided that with such tax the whole amount of parish taxes shall not exceed the limits of parish taxation fixed by this constitution.

The City of New Orleans shall make such appropriation for the support, maintenance and repair of the public schools of said city as it may deem proper, but not less than eight-tenths of one mill for any one year; and said schools shall also continue to receive from the Board of Liquidation of the city debt the amounts to which they are now entitled under the constitution amendment adopted in the year 1892.

The police juries of the several parishes and boards of trustees and municipal councils of incorporated cities and towns (the Parish of Orleans excepted) shall levy, collect and turn over to the Parish School Boards of their respective parishes, cities or towns, the proceeds of at least three mills of the annual tax which they are empowered to levy on each dollar of the assessed valuation of the property thereof; provided that cities and towns that are not exempted by the terms of their charters from the payment of parish taxes and which are subjected to the similar burdens of taxation as are the parishes shall not pay this tax, as same is included in the taxes imposed by the parish in which the town is situated, unless the parish boards of school directors of that parish certify that the needs of the schools can be met by a smaller levy of such taxes.

Provided that this shall not apply to cities that under legislative authority now conduct, maintain and support public schools, open and free to the youth of the parish in which said city is located, and levy, collect and expend annually for the conduct, maintenance and support of said schools the proceeds of at least three mills of the annual tax which they are empowered to levy on each dollar of the assessed valuation of property; and such cities shall not pay and turn over to the parish school board the proceeds of at least three mills of the annual tax, or any part thereof as herein provided, and shall be exempted from the same so long as such cities continue to conduct, maintain and support free schools as herein provided, under the supervision and control of the State Board of Education and independent parochial school authorities; provided further that such city shall not be eligible to vote at the elections for such directors for the parish in which such city is situated.

Section 2. Be it further resolved, That at the congressional election to be held in this State on the first Tuesday following the first Monday in November, 1914, the foregoing amendment to the Constitution of this State shall be submitted to the electors of this State; that on the official ballot to be used in said election shall be placed the words, "for the proposed amendment to Article 255 of the Constitution," and every elector shall indicate his vote on the proposed amendment as provided by the general election laws of this State.

CONSTITUTION OF MAINE—Amended to 1913

Article VIII

Literature

A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important subject the Legislature are authorized, and it shall be their duty to require the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools; and it shall further be

the duty to encourage and suitably endow from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the State; provided that no donation, grant or endowment shall at any time be made by the Legislature to any literary institution now established or which may hereafter be established, unless at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to alter, limit or restrain any of the powers vested in any such literary institution as shall be judged necessary to promote the best interests thereof.

CONSTITUTION OF MARYLAND—In force 1911

Article VIII

Education

Section 1. The General Assembly, at its first session after the adoption of this Constitution, shall, by law, establish throughout the State a thorough and efficient system of free Public Schools; and shall provide, by taxation or otherwise, for their maintenance.

Section 2. The system of Public Schools as now constituted shall remain in force until the end of the said first session of the General Assembly and shall then expire, except so far as adopted or continued by the General Assembly.

Section 3. The School Fund of the State shall be kept inviolate and appropriated to the purposes of education.

CONSTITUTION OF MASSACHUSETTS—1915

Article V

The Encouragement of Literature

Section 2. Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in different parts of the country, and among the different orders of the people, it shall be the duty of Legislatures and Magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the University of Cambridge, public schools and grammar schools in the towns, to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor and all social affections and generous sentiments among the people.

Articles of Amendment

Article XVIII. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the State for the support of common schools, shall be applied to and expended in no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.

MICHIGAN CONSTITUTION—1914

Article XI

Education

Section 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Section 2. A superintendent of public instruction shall be elected at the regular election to be held on the first Monday in April, 1909, and every second year thereafter. He shall hold office for a period of two years from the first date of July following his election and until his successor is elected and qualified. He shall have general supervision of public instruction in the State. He shall be a member and secretary of the State board of education. He shall be ex-officio a member of all other boards having control of public instruction in any State institution, with the right to speak but not to vote. His duties and compensation shall be prescribed by law.

Section 3. There shall be a board of regents of the university consisting of eight members, who shall hold office for eight years. There shall be elected at each regular biennial spring election two members of such board. When a vacancy shall occur in the office of regent it shall be filled by appointment of the Governor.

Section 4. The regents of the university and their successors in office shall continue to constitute the body corporate known as "The Regents of the University of Michigan."

Section 5. The regents of the university shall, as often as necessary, elect a president of the university. The president of the university and the superintendent of public instruction shall be ex-officio members of the board of regents, with the privilege of speaking but not of voting. The president shall preside at the meetings of the board and be the principal executive officer of the university. The board of regents shall have the general supervision of the university and the direction and control of all expenditures from the university funds.

Section 6. The State board of education shall consist of four members. On the first Monday in April, 1909, and at each succeeding biennial spring election, there shall be elected one member of such board who shall hold office for six years from the first day of July following his election. The State board of education shall have general supervision of the State normal college and the State normal schools, and the duties of said board shall be prescribed by law.

Section 7. There shall be elected on the first Monday in April, 1909, a State board of agriculture to consist of six members, two of whom shall hold the office for two years, two for four years, and two for six years. At every regular biennial spring election thereafter, there shall be elected two members whose term of office shall be six years. The members thus elected and their successors in office shall be a body corporate to be known as "The State Board of Agriculture."

Section 8. The State board of agriculture shall, as often as necessary, elect a president of the Agricultural college, who shall be ex-officio a member of the board with the privilege of speaking but not of voting. He shall preside at the meetings of the board and be the principal executive officer of the college. The board shall have the general supervision of the college, and the direction and control of all agricultural college funds; and shall perform such other duties as may be prescribed by law.

Section 9. The Legislature shall continue a system of primary schools, whereby every school district in the State shall provide for the education

of its pupils without charge for tuition; and all instruction in such schools shall be conducted in the English language. If any school district shall neglect to maintain a school within its borders as prescribed by law for at least five months in each year, or to provide for the education of its pupils in another district or districts for an equal period, it shall be deprived for the ensuing year of its proportion of the primary school interest fund. If any school district shall, on the second Monday in July of any year, have on hand a sufficient amount of money in the primary school interest fund to pay its teachers for the next ensuing two years as determined from the pay roll of said district for the last school year, and in case of a primary district, all tuition for the next ensuing two years, based upon the then enrollment in the seventh and eighth grades in said school district, the children in said district shall not be counted in making the next apportionment of primary school money by the superintendent of public instruction; nor shall such children be counted in making such apportionment until the amount of money in the primary school interest fund in said district shall be insufficient to pay teachers' wages or tuition as herein set forth for the next ensuing two years.

Section 10. The Legislature shall maintain the university, the college of mines, the State agricultural college, the State normal college and such State normal schools and other educational institutions as may be established by law.

Section 11. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the State for educational purposes and the proceeds of all lands or other property given by individuals or appropriated by the State for like purposes shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant or appropriation.

Section 12. All lands, the titles to which shall fail from a defect of heirs, shall escheat to the State, and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of the primary schools.

Section 13. The Legislature shall appropriate all salt spring lands now unappropriated, or the money arising from the sale of same, where such lands have already been sold, and any funds or lands which may hereafter be granted or appropriated for such purpose, for the support and maintenance of the agricultural college.

Section 14. The legislature shall provide by law for the establishment of at least one library in each township and city; and all fines assessed and collected in the several counties, cities and townships for any breach of the penal laws shall be exclusively applied to the support of such libraries.

Section 15. Institutions for the benefit of those inhabitants who are deaf, dumb, blind, feeble-minded or insane shall always be fostered and supported.

MINNESOTA CONSTITUTION

Article VIII

School Funds, Education and Science

Section 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public schools.

Section 2. The proceeds of such lands as are or hereafter may be granted by the United States for the use of schools within each township of this

State shall remain a perpetual school fund to the State; and not more than one-third of said lands may be sold in two years, one-third in five years and one-third in ten years; but the lands of the greatest valuation shall be sold first; provided, that no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales or other disposition of lands or other property, granted or entrusted to this State in each township for educational purposes, shall forever be preserved inviolate and undiminished; and the income arising from the lease or sale of said school land shall be distributed to the different townships throughout the State, in proportion to the number of scholars in each township, between the ages of 5 and 21 years; and shall be faithfully applied to the specific objects of the original grants or appropriations.

(Suitable laws shall be enacted by the legislature for the safe investment of the principal of all funds which have heretofore arisen or which may hereafter arise from the sale or other disposition of such lands, or the income of such lands accruing in any way before the sale or disposition thereof, in interest-bearing bonds of the United States, or of the State of Minnesota, issued after the year 1860, or of such other State as the legislature may, by law, from time to time direct.—Adopted November 5, 1875.)

All swamp land now held by the State, or that hereafter may accrue to the State, shall be appraised, and sold in the same manner and by the same officers, and the minimum price shall be the same less one-third, as is provided by law for the appraisal and sale of the school lands under the provisions of title one of chapter 38 of the General Statutes. The principal of all funds derived from sales of swamp lands, as aforesaid, shall forever be preserved inviolate and undiminished. One-half of the proceeds of said principal shall be appropriated to the common school fund of the State. The remaining one-half shall be appropriated to the educational and charitable institutions of the State in relative ratio of cost to support of said institutions. (Adopted November 8, 1881.)

Section 3. The legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school fund, will secure a thorough and efficient system of public schools in each township in the State.

(But in no case shall the moneys derived as aforesaid, or any portion thereof, or any public moneys or property, be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught.—Adopted November 6, 1877.)

Section 4. The location of the University of Minnesota, as established by existing laws, is hereby confirmed, and said institution is hereby declared to be the University of the State of Minnesota. All the rights, immunities, franchises and endowments heretofore granted or conferred are hereby perpetuated unto the said university; and all lands which may be granted hereafter by Congress, or other donations for said university purposes, shall vest in the institution referred to in this section.

Section 5. The permanent school funds of the State may be loaned upon interest at the rate of 5 per cent. per annum to the several counties or school districts of the State, to be used in the erection of county or school buildings. No such loan shall be made until approved by a board consisting of the governor, the State auditor and the State treasurer, who are hereby constituted an investment board for the purpose of the loans thereby authorized; nor shall any such loan be for any amount exceeding 3 per cent. of the last preceding assessed valuation of the real estate of the county or school district receiving the same. The State auditor shall annually, at the time of certifying the State tax to the several county auditors, also certify to each auditor to whose county, or to any of the

school districts of whose county any such loan shall have been made, the tax necessary to be levied to meet the accruing interest or principal of any such loan, and it shall be the duty of every such county auditor forthwith to levy and extend such tax upon all taxable property of his county, or of the several school districts, respectively, liable for such loans—as the case may be—and in all such cases the tax so assessed shall be 50 per cent. in excess of the amount actually necessary to be raised on account of such accruing principal or interest. It shall be levied, collected and paid into the county and State treasuries in the same manner as State taxes, and any excess collected over the amount of such principal or interest accruing in any given year shall be credited to the general funds of the respective counties or school districts. No change of the boundaries of any school district after the making of any such loan shall operate to withdraw any property from the taxation herein provided for; nor shall any law be passed extending the time of payment of any such principal or interest, or reducing the rate of such interest, or in any manner waiving or impairing any rights of the State in connection with any such loan. Suitable laws, not inconsistent with this amendment, may be passed by the legislature for the purpose of carrying the same into effect.—Adopted November 2, 1886. Chapter 193, G. L. of 1887, made the necessary provisions for giving effect to this section.

Section 6. The permanent school and university fund of this State may be invested in the bonds of any county, school district, city, town or village of this State, but no such investment shall be made until approved by the board of commissioners designated by law to regulate the investment of the permanent school fund and the permanent university fund of this State; nor shall such loan or investment be made when the bonds to be issued or purchased would make the entire bonded indebtedness exceed 15 per cent. of the assessed valuation of the taxable real property of the county, school district, city, town or village issuing the bonds; nor shall such loans or indebtedness be made at a lower rate of interest than 3 per cent. per annum, nor for a shorter period than five years, nor for a longer period than twenty years, and no change of the town, school district, city, village or of county lines shall relieve the real property in such town, school district, county, village or city in this State at the time of the issuing of such bonds from any liability for taxation to pay such bonds.

MISSISSIPPI—Constitution, 1890

Article VIII

Education

Section 201. It shall be the duty of the legislature to encourage by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement, by establishing a uniform system of free public schools, by taxation, or otherwise, for all children between the ages of 5 and 21 years, and, as soon as practicable, to establish schools of higher grade.

Section 202. There shall be a superintendent of public education elected at the same time and in the same manner as the governor, who shall have the qualifications required of the secretary of state, and hold his office for four years and until his successor shall be elected and qualified, who shall have the general supervision of the common schools and of the educational interests of the State, and who shall perform such other duties and receive such compensation as shall be prescribed by law.

Section 203. There shall be a board of education, consisting of the secretary of state, the attorney-general and the superintendent of public

education, for the management and investment of the school funds, according to law, and for the performance of such other duties as may be prescribed. The Superintendent and one other of said board shall constitute a quorum.

Section 204. There shall be a superintendent of public education in each county, who shall be appointed by the Board of Education by and with the advice and consent of the Senate, whose term of office shall be four years, and whose qualifications, compensation and duties shall be prescribed by law; provided, that the legislature shall have power to make the office of county school superintendent of the several counties elective, or may otherwise provide for the discharge of the duties of county superintendent, or abolish said office.

Section 205. A public school shall be maintained in each school district in the county at least four months during each scholastic year. A school district neglecting to maintain its school four months shall be entitled only to such part of the free school fund as may be required to pay the teacher for the time actually taught.

Section 206. There shall be a common school fund which shall consist of the poll tax (to be retained in the counties where the same is collected) and an additional sum from the general fund in the State treasury, which together shall be sufficient to maintain the common schools for the term of four months in each scholastic year. But any county or separate school district may levy an additional tax to maintain its schools for a longer time than the term of four months. The common school fund shall be distributed among the several counties and several school districts in proportion of educable children in each, to be determined from data collected through the office of State superintendent of education, in the manner to be prescribed by law.

Section 207. Separate schools shall be maintained for children of the white and colored races.

Section 208. No religious or other sect, or sects, shall ever control any part of the school or other educational funds of this State; nor shall any funds be appropriated towards the support of any sectarian schools, or to any school that, at the time of receiving such appropriation, is not conducted as a free school.

Section 209. It shall be the duty of the legislature to provide by law for the support of institutions for the education of the deaf, dumb and the blind.

Section 210. No public officers of this State, or any district, county, city or town thereof, nor any teacher or trustee of any public school, shall be interested in the sale, proceeds or profits of any books, apparatus or furniture to be used in any public school in this State. Penalties shall be provided by law for the violation of this section.

Section 211. The legislature shall enact such laws as may be necessary to ascertain the true condition of the title to the sixteenth section of land in this State, or land granted in lieu thereof, in the Choctaw purchase, and shall provide that the sixteenth section lands reserved for the support of township schools shall not be sold, nor shall they be leased for a longer term than ten years for a gross sum; but the legislature may provide for the lease of any of said lands for a term not exceeding 25 years for a ground rental payable annually, and, in case of uncleared lands, may lease them for such short term as may be deemed proper in consideration of the improvement thereof, with right thereafter to lease for a term or to hold on payment of ground rent.

Section 212. The rate of interest on the fund known as the Chickasaw school fund, and other trust funds for educational purposes, for which the State is responsible, shall be fixed and remain as long as said funds are

held by the State, at 6 per centum per annum, from and after the close of the fiscal year A. D. 1891, and the distribution of said interest shall be made semi-annually on the first of May and November of each year.

Section 213. The State having received and appropriated the land donated to it for the support of Agricultural and Mechanical Colleges, by the United States, and having, in furtherance of the beneficent design of Congress in granting said land, established the Agricultural and Mechanical College of Mississippi and the Alcorn Agricultural and Mechanical College, it is the duty of the State to sacredly carry out the conditions of the act of Congress, upon the subject, approved July 2, A. D. 1862, and the legislature shall preserve intact the endowments to, and support, said colleges.

MISSOURI CONSTITUTION—Amended to 1902

Article XI

Education

Section 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of 6 and 20 years.

Section 2. The income of all the funds provided by the State for the support of free public schools shall be paid annually to the several county treasurers, to be disbursed according to law; but no school district in which a free public school has not been maintained at least three months during the year for which the distribution is made, shall be entitled to receive any portion of such funds.

Section 3. Separate free public schools shall be established for the education of children of African descent.

Section 4. The supervision of instruction in the public schools shall be vested in a "Board of Education," whose powers and duties shall be prescribed by law. The Superintendent of Public Schools shall be president of the board. The Governor, Secretary of State and Attorney-General shall be ex-officio members, and, with the Superintendent, compose said Board of Education.

Section 5. The General Assembly shall, whenever the Public School fund will permit, and the actual necessity of the same may require, aid and maintain the State University, now established, with its present departments. The government of the State University shall be vested in a Board of Curators, to consist of nine members, to be appointed by the Governor, by and with the advice and consent of the Senate.

Section 6. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands and other property now belonging to any State fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat, from unclaimed dividends and distributive shares of the estates of deceased persons; also, any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this State (if Congress will consent to such appropriation); also, all other grants, gifts or devises that have been or hereafter may be made to this State, and not otherwise appropriated by the State or the terms of the grant, gift or devise shall be paid into the State treasury, and securely invested and sacredly preserved as a Public

School Fund; the annual income of which fund, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the State University in this article provided for, and for no other uses or purposes whatsoever.

Section 7. In case the Public School Fund now provided and set apart by law for the support of free public schools shall be insufficient to sustain a free school at least four months in every year in each school district of this State, the General Assembly may provide for such deficiency in accordance with Section eleven of the article on revenue and taxation; but in no case shall there be set apart less than twenty-five per cent. of the State revenue, exclusive of the Interest and Sinking Funds, to be applied annually to the support of the public schools.

Section 8. All moneys, stocks, bonds, lands and other property belonging to a county school fund; also, the net proceeds from the sale of estrays; also, the clear proceeds of all penalties and forfeiture, and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and be securely invested and sacredly preserved in the several counties, as a county public school fund; the income of which fund shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State.

Section 9. No part of the Public School fund of the State shall ever be invested in the stock or bonds or other obligations of any other State, or of any county, city, town or corporation; and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong, to said school fund, shall be invested in the bonds of the State of Missouri or of the United States.

Section 10. All county school funds shall be loaned only upon unencumbered real estate security, of double the value of the loan, with personal security in addition thereto.

Section 11. Neither the General Assembly, nor any county, city, town, township, school district or other municipal corporation shall ever make an appropriation or pay from any public fund whatever anything in aid of any religious creed, church or sectarian purpose; or to help support or sustain any private or public school, academy, seminary, college, university or other institution of learning, controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any county, city, town or other municipal corporation, for any religious creed, church or sectarian purpose whatever.

CONSTITUTION OF MONTANA—with Amendments to 1909

Article XI

Section 1. It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform and thorough system of public free common schools.

Section 2. The public school fund of the State shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted to the State by the general government, known as school lands; and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land, or money, made to the State from the general government for general educational purposes, or where no other

special purpose is indicated in such grant; all estates or distributive shares of the estates that may escheat to the State; all unclaimed shares and dividends of any corporation incorporated under the laws of the State, and all other grants, gifts, devises or bequests made to the State for general educational purposes.

Section 3. Such public school fund shall forever remain inviolate, guaranteed by the State against loss and diversion, to be invested, so far as possible, in public securities within the State, including school district bonds; issued for the erection of school buildings, under the restrictions to be provided by law.

Section 4. The Governor, Superintendent of Public Instruction, Secretary of State and Attorney-General shall constitute the State Board of land commissioners, which shall have the direction, control, leasing and sale of the school lands of the State, and the lands granted, or which may hereafter be granted for the support and benefit of the various State educational institutions, under such regulations and restrictions as may be prescribed by law.

Section 5. The interest on all invested school funds of the State, and all rents accruing from the leasing of any school lands, shall be apportioned to the several school districts of the State in proportion to the number of children and youths between the ages of 6 and 21 years residing therein respectively, but no district shall be entitled to such distributive shares that does not maintain a public free school for at least three months during the year for which distribution shall be made.

Section 6. It shall be the duty of the legislative assembly to provide by taxation, or otherwise, sufficient means, in connection with the amount received from the general school fund, to maintain a public, free common school in each organized district in the State for at least three months in each year.

Section 7. The public free schools of the State shall be open to all children and youths between the ages of 6 and 21 years.

Section 8. Neither the legislative assembly, nor any county, city, town or school district, or other public corporations, shall ever make, directly or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university, or other literary, scientific institution controlled in whole or in part by any church, sect or denomination whatever.

Section 9. No religious or partisan test or qualification whatever shall ever be required of any person as a condition of admission into any public educational institution of the State, either as teacher or student; nor shall attendance be required at any religious service whatever, nor shall any sectarian tenets be taught in any public institution of the State; nor shall any person be debarred admission to any of the collegiate departments of the university on account of sex.

Section 10. The legislative assembly shall provide that all elections for school district officers shall be separate from those elections at which State or county officers are voted for.

Section 11. The general control and supervision of the State university and the various other State educational institutions shall be vested in a State board of education, whose powers and duties shall be prescribed and regulated by law. The said board shall consist of 11 members; the Governor, State Superintendent of Public Instruction and the Attorney-General being members ex-officio, the other eight members thereof shall be appointed by the Governor, subject to the confirmation of the Senate, under the regulations and restrictions to be provided by law.

Section 12. The funds of the State university and of all other State institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be prescribed by law, and shall be guaranteed by the State against loss or diversion. The interest of said invested funds, together with the rents from leased lands or properties, shall be devoted to the maintenance and perpetuation of these respective institutions.

CONSTITUTION OF NEBRASKA—Amended to 1913

Article VIII

Section 1. *Board of Education Lands and Funds.* The Governor, Secretary of State, Treasurer, Attorney-General and Commissioner of Public Lands and Buildings shall, under the direction of the legislature, constitute a Board of Commissioners, for the sale, leasing and general management of all lands and funds set apart for educational purposes, and for the investment of school funds, in such manner as may be prescribed by law.

Section 2. *Property. How Used.* All lands, money or other property granted or bequeathed, or in any manner conveyed to this State for educational purposes, shall be used and expended in accordance with the terms of such grant, bequest or conveyance.

Section 3. *Permanent School Fund.* The following are hereby declared to be perpetual funds for common school purposes, of which the annual interest or income only can be appropriated, to wit:

First. Such per centum as has been or may hereafter be, granted by Congress on the sale of lands in this State.

Second. All moneys arising from the sale or leasing of sections number 16 and 36 in each township in this State, and the lands selected, or that may be selected, in lieu thereof.

Third. The proceeds of all lands that have been, or may hereafter be, granted to this State, whereby the terms and conditions of such grant the same are not to be otherwise appropriated.

Fourth. The net proceeds of lands and other property and effects that may come to this State, by escheat or forfeiture, or from unclaimed dividends, or distributive shares of the estates of deceased persons.

Fifth. All moneys, stocks, bonds, lands and other property, now belonging to the common school fund.

Section 4. *Temporary School Fund.* All other grants, gifts and devises that have been, or may hereafter be, made to this State, and not otherwise appropriated by the terms of the grant, gift or devise, the interest arising from all the funds mentioned in the preceding section, together with all the rents of the unsold school lands, and such other means as the legislature may provide, shall be exclusively applied to the support and maintenance of common schools in each school district in the State.

Section 5. *Fines, Penalties and License Moneys.* All fines, penalties and license moneys, arising under the general laws of the State, shall belong and be paid over to the counties respectively, where the same may be levied or imposed, and all fines, penalties and license moneys arising under the rules, by-laws or ordinances of cities, villages, towns, precincts or other municipal subdivisions less than a county, shall belong and be paid over to the same respectively. All such fines, penalties and license moneys shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue.

Section 6. *Common Schools, Free.* The legislature shall provide for the

free instruction in the common schools of this State of all persons between the ages of five and twenty-one years.

Section 7. *Income. Distribution.* Provision shall be made by general law for an equitable distribution of the income of the fund set apart for the support of the common schools, among the several school districts of the State, and no appropriation shall be made from said fund to any district for the year in which school is not maintained for at least three months.

Section 8. *Educational lands. Price.* University, agricultural college, common school or other lands, which are now held or may hereafter be acquired by the State for educational purposes, shall not be sold for less than seven dollars per acre, nor less than the appraised value.

Section 9. *Funds Inviolable. Investment.* All funds belonging to the State for educational purposes, the income and interest whereof only are to be used, shall be deemed trust funds held by the State, and the State shall supply all losses thereof, that may in any manner accrue, so that the same shall remain forever inviolate and undiminished; and shall not be invested or loaned except on United States or State securities, or registered county bonds of this State, or registered school district bonds of this State; and such other securities as the Legislature may from time to time direct. And such funds, with the interest and income thereof, are hereby solemnly pledged to the purposes for which they are granted and set apart, and shall not be transferred to any other fund for other uses.

Section 10. *University government. Regents.* The general government of the University of Nebraska shall, under the direction of the Legislature, be vested in a board of six regents, to be styled The Board of Regents of the University of Nebraska, who shall be elected by the electors of the State at large, and their term of office, except those chosen at the first election as hereinafter provided, shall be six years. Their duties and powers shall be prescribed by law; and they shall receive no compensation, but may be reimbursed their actual expenses incurred in the discharge of their duty.

Section 11. *Sectarian Instruction Prohibited.* No sectarian instruction shall be allowed in any school or institution supported in whole or in part by the public fund set apart for educational purposes; nor shall the State accept any grant, conveyance, or bequest of money, lands or other property to be used for sectarian purposes.

Section 12. *Reform Schools.* The legislature may provide by law for the establishment of a school or schools for the safe keeping, education, employment and reformation of all children under the age of sixteen years, who for want of proper parental care, or other cause, are growing up in mendicancy or crime.

CONSTITUTION OF NEVADA—1913

Article XI

Section 1. The Legislature shall encourage by all suitable means the promotion of intellectual, literary, scientific, mining, mechanical, agricultural and moral improvement, and also provide for the election by the people, at the general election, of a superintendent of public instruction, whose term of office shall be two years from the first Monday of January, A.D., 1865, and until the election and the qualification of his successor, and whose duties shall be prescribed by law.

Section 2. The Legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year; and any school district neglecting to establish and maintain such a school or which shall allow

instruction of a sectarian character therein, may be deprived of its proportion of the interest of the public school fund during such neglect or infraction; and the Legislature may pass such laws as will tend to secure a general attendance of the children in each school district upon said public schools.

Section 3. All lands, including the 16th and 36th sections in any township donated for the benefit of public schools in the act of the 38th Congress, to enable the people of Nevada territory to form a State government, the 30,000 acres of public land granted by an Act of Congress, approved July 2nd, A. D., 1862, for each Senator and Representative in Congress, and all proceeds of lands that have been or may hereafter be granted or appropriated by the United States to this State, and also the 500,000 acres of land granted to the new State under the Act of Congress distributing the proceeds of the public lands among the several States of the Union approved A. D., 1841; provided, that Congress make provision for or authorize such diversion to be made for the purpose herein contained; all estates that may escheat to the State; all of such per centum as may be granted by Congress on the sale of lands, all fines collected under the penal laws of the State; all property given or bequeathed to the State for educational purposes, and all proceeds derived from any or all of said sources shall be and the same are hereby solemnly pledged for educational purposes, and shall not be transferred to any other fund for other uses; and the interest thereon shall, from time to time, be apportioned among the several counties as the Legislature may provide by law; and the Legislature shall provide for the sale of floating land warrants to cover the aforesaid lands, and for the investment of all proceeds derived from any of the above-mentioned sources, in United States bonds, or the bonds of this State, or the bonds of other States of the Union, or the bonds of any county in the State of Nevada for educational purposes, and any surplus interest shall be added to the principal sum; and provided further, that such portion of said interest as may be necessary may be appropriated for the support of the state university. (As amended and approved 1912.)

Section 4. The Legislature shall provide for the establishment of a state university, which shall embrace departments for agriculture, mechanic arts and mining, to be controlled by a board of regents whose duties shall be prescribed by law.

Section 5. The Legislature shall have the power to establish normal schools, and such different grade of schools, from the primary department to the university, as in their discretion they may deem necessary, and all professors in said university, or teachers in said schools, of whatever grade shall be required to take and subscribe to the oath as prescribed in Article XV of this constitution. No professor or teacher who fails to comply with the provisions of any law framed in accordance with the provisions of this section shall be entitled to receive any portion of the public moneys set apart for school purposes.

Section 6. The Legislature shall provide a special tax, which shall not exceed two mills on the dollar of all taxable property in the State, in addition to the other means provided for the support and maintenance of said university and common schools. (As amended Feb. 11, 1889.)

Section 7. The Governor, Secretary of State and Superintendent of Public Instruction shall for the first four years and until their successors are elected and qualified, constitute a board of regents, to control and manage the affairs of the university and the funds of the same, under such regulations as may be provided by law. But the Legislature shall, at its regular session next preceding the expiration of the term

of office of the said board of regents, provide for the election of a new board of regents and define their duties.

Section 8. The board of regents shall, from the interest accruing from the funds which come under their control, immediately organize and maintain the said mining department in such manner as to make it most effective and useful; provided, that all the proceeds of the public lands donated by Act of Congress approved July 2nd, A. D., 1862, for a college for the benefit of agriculture, the mechanic arts, and including military tactics, shall be invested by the said board of regents in a separate fund, to be appropriated exclusively for the benefit of the first named departments to the university, as set forth in Section 4 above; and the Legislature shall provide that if, through neglect or any other contingency any portion of the fund so set apart shall be lost or misappropriated, the State of Nevada shall replace said amount so lost or misappropriated in said fund, so that the principal of the said fund shall remain forever undiminished.

Section 9. No sectarian instruction shall be imparted or tolerated in any school or university that may be established under this constitution.

Section 10. No public fund of any kind or character whatever, State, county or municipal, shall be used for sectarian purposes. (Section 10 was added to Article XI by amendment and approved 1880.)

CONSTITUTION OF NEW HAMPSHIRE—1902

Encouragement of Literature, Etc.

Article 82. Knowledge and learning generally diffused through a community being essential to the preservation of a free government, and spreading the opportunities and advantages of education through various parts of the country being highly conducive to promote this end, it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interests of literature and the sciences, and all seminaries and public schools: to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures and natural history, of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections and generous sentiments among the people; *provided nevertheless* that no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization, and provision should be made for the supervision and government thereof: Therefore, all just power possessed by the State is hereby granted to the general court to enact laws to prevent the operations within the State of all persons and associations, and all trusts and corporations, foreign and domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means: to control and regulate the acts of all such persons, associations, corporations, trusts and officials doing business within the State; to prevent fictitious capitalization: and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

Article IV

Section VI. The fund for the support of free schools, and all money, stock and other property which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of public free schools, for the equal benefit of all the people of the State; and it shall not be competent for the Legislature to borrow, appropriate or use the said fund, or any part thereof, for any other purpose, under any pretense whatever. The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen years.

Section VII. The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

11. Providing for the management and support of free public schools.

NEW MEXICO—Constitution, Amended to 1914

Article XII

Section 1. A uniform system of free public school sufficient for the education of, and open to, all the children of school age in the State shall be established and maintained.

Section 2. The permanent school fund of the State shall consist of the proceeds of sales of sections two, sixteen, thirty-two and thirty-six in each township of the State, or the lands selected in lieu thereof; the proceeds of sales of all lands that have been or may hereafter be granted to the State not otherwise appropriated by the terms and conditions of the grant; such portion of the proceeds of sales of lands of the United States within the State as has been or may be granted by Congress; also all other grants, gifts and devises made to the State the purpose of which is not otherwise specified.

Section 3. The schools, colleges, universities and other educational institutions provided for by the constitution shall forever remain under the exclusive control of the State, and no part of the proceeds arising from the sale or disposal of any lands granted to the State by Congress, or any other funds appropriated, levied or collected for educational purposes shall be used for the support of any sectarian, denominational or private school, college or university.

Section 4. All fines and forfeitures collected under general laws; the net proceeds of property that may come to the State by escheat, the rentals of all school lands and other lands granted to the State, the disposition of which is not otherwise provided for by the terms of the grant or by act of Congress; and the income derived from the permanent school fund, shall constitute the current school fund of the State. The legislature shall provide for the levy and collection of an annual tax upon all taxable property in the State for the maintenance of the public schools, the proceeds of such tax levy to be added to the current school fund above provided for. The current school fund shall be distributed among the school districts of the State in the proportion that the number of children of school age in each district bears to the total number of such children in

the State, and shall provide for the levy and collection of additional local taxes for school purposes. A public school shall be maintained for at least five months in each year in every school district in the State.

Before making the distribution above provided for, there shall be taken from the current school fund as above created, a sufficient reserve to be distributed among school districts in which the proceeds of the annual local tax, when levied to the limit allowed by law, plus the regular quota of current school funds allotted to said district, shall not be sufficient for the maintaining of a school for the full period of five months, and this reserve fund shall be so distributed among such districts as to enable each district to hold school for the said period.

Section 5. Every child of school age and of sufficient physical and mental ability shall be required to attend a public or other school during such period and for such time as may be prescribed by law.

Section 6. A State Board of Education is hereby created, to consist of seven members. It shall have the control, management and direction of all public schools, under such regulations as may be provided by law. The Governor and the State Superintendent of Public Instruction shall be ex-officio members of said board, and the remaining five members shall be appointed by the Governor, by and with the consent of the Senate; and shall include the head of some State educational institution, a county superintendent of schools, and one other person actually connected with educational work. The legislature may provide for district or other school officers, subordinate to said board.

Section 7. The principal of the permanent school fund shall be invested in the bonds of the State or Territory of New Mexico, or of any county, city, town, board of education or school district therein. The legislature may by three-fourths vote of the members elected to each house provide that said funds may be invested in other interest-bearing securities. All bonds or other security in which any portion of the school fund shall be invested must be first approved by the Governor, Attorney-General and Secretary of State. All losses from such funds, however occurring, shall be reimbursed by the State.

Section 8. The legislature shall provide for the training of teachers in the normal schools or otherwise, so that they may become proficient in both the English and Spanish languages, to qualify them to teach Spanish-speaking pupils and students in the public schools and educational institutions of the State; and shall provide proper means and methods to facilitate the teaching of the English language and other branches of learning to such pupils and students.

Section 9. No religious test shall ever be required as a condition of admission into the public schools or any educational institution of this State, either as a teacher or student, and no teacher or student of such school or institution shall ever be required to attend, or participate in any religious service whatsoever.

Section 10. Children of Spanish descent in the State of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other educational institutions of the State, and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the State, and the legislature shall provide penalties for the violation of this section. This section shall never be amended except upon a vote of the people of this State, in an election at which at least three-fourths of the electors voting in the whole State and at least two-thirds of those voting in each county in the State shall vote for such amendment.

Section 11. The University of New Mexico at Albuquerque, the New

Mexico College of Agriculture and Mechanics Arts near Las Cruces, the New Mexico School of Mines at Socorro, the New Mexico Military Institute at Roswell, the New Mexico Normal University at Las Vegas, the New Mexico Normal School at Silver City, the Spanish-American School at El Rito, the New Mexico Asylum for the Deaf and Dumb at Santa Fé, and the New Mexico Institute for the Blind at Alamagordo, are hereby confirmed as State educational institutions. The appropriations made and that may hereafter be made to the State by the United States for agricultural and mechanical colleges and experiment stations in connection therewith shall be paid to the New Mexico College of Agriculture and Mechanic Arts.

Section 12. All lands granted under the provisions of the act of Congress entitled "An Act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States," for the purposes of said several institutions are hereby accepted and confirmed to said institutions, and shall be exclusively used for the purposes for which they were granted; provided, that 170,000 acres of the land granted by said act for normal school purposes are hereby equally apportioned between three said normal institutions, and the remaining 30,000 acres thereof is reserved for a normal school which shall be established by the legislature and located in one of the counties of Union, Quay, Curry, Roosevelt, Chavez or Eddy.

Section 13. The legislature shall provide for the control and management of each of said institutions by a board of regents, for each institution, consisting of five members to be appointed by the Governor, by and with the advice and consent of the Senate for a term of four years, and not more than three of whom shall belong to the same political party at the time of their appointment. The duties of said board shall be prescribed by law.

CONSTITUTION OF NEW YORK—Amended to 1894

Article IX

Section 1. The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

(*New.*) Section 2. The corporation created in the year 1874 under the name of The Regents of the University of the State of New York is hereby continued under the name of The University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the legislature, shall be exercised by not less than nine regents.

(*New.*) Section 3. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of the common schools, the revenue of the literature fund shall be applied to the support of academies; and the sum of \$25,000 of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund.

(Section 1 of Article IX of the amended constitution of 1846, without change.)

Section 4. Neither the State nor any subdivision thereof shall use its property or credit or any public money, or authorize or permit either to be

used, directly or indirectly, in aid or maintenance, other than for examination or inspection of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught.

NORTH CAROLINA CONSTITUTION—1914

Article IX

Section 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Section 2. The General Assembly, at its first session under this constitution, shall provide by taxation and otherwise for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years. And the children of the white race and the children of the colored race shall be taught in separate public schools; but there shall be no discrimination in favor of or to the prejudice of either race.

Section 3. Each county of the State shall be divided into a convenient number of districts, in which one or more public schools shall be maintained at least four months in every year; and if the Commissioners of any county shall fail to comply with the aforesaid requirements of this section they shall be liable to indictment.

Section 4. The proceeds of all lands that have been or hereafter may be granted by the United States to this State and not otherwise appropriated by this State or the United States, also all moneys, stocks, bonds and other property now belonging to any State fund for purposes of education, also the net proceeds of all sales of the swamp lands belonging to the State, and all other grants, gifts or devises that have been or hereafter may be made to the State and not otherwise appropriated by the State or by the terms of the grant, gift or devise, shall be paid into the State Treasury, and, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining in this State a system of free public schools, and for no other uses or purposes whatever.

Section 5. All moneys, stocks, bonds and other property belonging to a county school fund, also the net proceeds from the sale of estrays, also the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and remain in the several counties, and shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of the State: PROVIDED, that the amount collected in each county shall be annually reported to the Superintendent of Public Instruction.

Section 6. The General Assembly shall have power to provide for the election of trustees of the University of North Carolina, in whom, when chosen, shall be vested all the privileges, rights, franchises and endowments thereof in any wise granted to or conferred upon the trustees of said University, and the General Assembly may make such provisions, laws and regulations from time to time as may be necessary and expedient for the maintenance and management of said University.

Section 7. The General Assembly shall provide that the benefits of the University, as far as practicable, be extended to the youths of the State free of expense for tuition; also that the property which has heretofore accrued to the State or shall hereafter accrue from escheats, unclaimed

dividends or distributive shares of the estates of deceased persons shall be appropriated to the use of the University.

Section 8. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, Auditor, Superintendent of Public Instruction and Attorney-General shall constitute a State Board of Education.

Section 9. The Governor shall be President and the Superintendent of Public Instruction shall be Secretary of the Board of Education.

Section 10. The Board of Education shall succeed to all the powers and trusts of the President and Directors of the Literary Fund of North Carolina, and shall have full power to legislate and make all needful rules and regulations in relation to free public schools and the educational fund of the State; but all acts, rules and regulations of said Board may be altered, amended or repealed by the General Assembly, and when so altered, amended or repealed they shall not be re-enacted by the Board.

Section 11. The first session of the Board of Education shall be held at the capital of the State within fifteen days after the organization of the State Government under this Constitution: the time of future meetings may be determined by the Board.

Section 12. A majority of the Board shall constitute a quorum for the transaction of business.

Section 13. The contingent expenses of the Board shall be provided by the General Assembly.

Section 14. As soon as practicable after the adoption of this Constitution the General Assembly shall establish and maintain in connection with the University a department of agriculture, of mechanics, of mining and of normal instruction.

Section 15. The General Assembly is hereby empowered to enact that every child of sufficient mental and physical ability shall attend the public schools during the period between the ages of six and eighteen years for a term of not less than sixteen months, unless educated by other means.

CONSTITUTION OF NORTH DAKOTA—1889

Article 8

Education

Section 147. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the State of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

Section 148. The legislature shall provide at its first session after the adoption of this constitution, for a uniform system of free public schools throughout the State, beginning with the primary and extending through all grades up to and including the normal and collegiate course.

Section 149. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit and respect for honest labor of every kind.

Section 150. A superintendent of schools for each county shall be elected every two years, whose qualifications, duties, powers and compensation shall be fixed by law.

Section 151. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific and agricultural improvements.

Section 152. All colleges, universities and other educational institutions, for the support of which lands have been granted to this State, or which are supported by a public tax, shall remain under the absolute and exclusive control of the State. No money raised for the support of the public schools of the State shall be appropriated to or used for the support of any sectarian school.

Article 9

School and Public Lands

Section 153. All proceeds of the public lands that have heretofore been, or may hereafter be, granted by the United States for the support of the common schools in this State; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the State by escheat; the proceeds of all gifts and donations to the State for common schools or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired by common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual fund for the maintenance of the common schools of the State. It shall be deemed a trust fund, the principal of which shall forever remain inviolate and may be increased, but never diminished. The State shall make good all losses thereof.

Section 154. The interest and income of this fund, together with the net proceeds of all fines for violation of State laws, and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the State, and shall be for this purpose apportioned among and between all the several common school corporations of the State in proportion to the number of children in each of school age, as may be fixed by law, and no part of the fund shall be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the State; provided, however, that if any portion of the interest or income aforesaid be not expended during any year, said portion shall be added to and become a part of the school fund.

Section 155. After one year from the assembling of the first legislative assembly the lands granted to the State from the United States for the support of common schools may be sold upon the following conditions, and no other. No more than one-fourth of all such lands shall be sold within the first five years after the same become salable by virtue of this section. No more than one-half of the remainder within ten years after the same become salable as aforesaid. The residue may be sold at any time after the expiration of said ten years. The legislative assembly shall provide for the sale of all school lands subject to the provisions of this article. The coal lands of the State shall never be sold, but the legislative assembly may by general laws provide for leasing same. The words "coal lands" shall include lands bearing lignite coal.

Section 156. The superintendent of public instruction, governor, attorney-general, secretary of State and State auditor shall constitute a board of commissioners which shall be denominated the "Board of University and School Lands," and subject to the provisions of this article and any law that may be passed by the legislative assembly, said board shall have control of the appraisalment, sale, rental and disposal of all

school and university lands, and shall direct the investment of the funds arising therefrom in the hands of the State treasurer, under the limitations in section 160 of this article.

Section 157. The county superintendent of common schools, the chairman of the county board and the county auditor shall constitute boards of appraisal and under the authority of the State board of university and school lands shall appraise all school lands within their respective counties which they may from time to time recommend for sale at their actual value under the prescribed terms and shall first select and designate for sale the most valuable lands.

Section 158. No land shall be sold for less than the appraised value and in no case for less than \$10 per acre. The purchaser shall pay one-fifth of the price in cash and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years with interest at the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the land to be sold, and one at the seat of government. Such lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for any such lands shall issue until payment is made for the same; provided that the lands contracted to be sold by the State shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall become null and void.

Section 159. All land, money or other property donated, granted or received from the United States or any other source for a university, school of mines, reform school, agricultural college, deaf and dumb asylum, normal school or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the State, and the State shall make good all losses thereof.

Section 160. All lands mentioned in the preceding section shall be appraised and sold in the same manner and under the same limitations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools; but a distinct and separate account shall be kept by the proper officers of each of said funds; provided that the limitations as to the time in which school land may be sold shall apply only to lands granted for the support of common schools.

Section 161. The legislative assembly shall have authority to provide by law for the leasing of lands granted to the State for educational and charitable purposes; but no such law shall authorize leasing of said lands for a period longer than five years. Said lands shall only be leased for pasturage and meadow purposes and at a public auction after notice as heretofore provided in case of sale; provided that all of said school lands now under cultivation may be leased, at the discretion and under the control of the board of university and school lands, for other than pasturage and meadow purposes until sold. All rents shall be paid in advance.

Section 162. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the State, bonds of the United States, bonds of the State of North Dakota or in first mortgages on farm lands in the State, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisers of school lands.

Section 163. No law shall ever be passed by the legislative assembly granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall ever be recognized, nor shall such occupation, cultivation or improvement of any public lands ever be used to diminish, either directly or indirectly, the purchase price of said lands.

Section 164. The legislative assembly shall have authority to provide by law for the sale or disposal of all public lands that have been heretofore or may hereafter be granted by the United States to the State for purposes other than set forth and named in sections 153 and 159 of this article. And the legislative assembly, in providing for the appraisalment sale, rental and disposal of the same, shall not be subject to the provisions and limitations of this article.

Section 165. The legislative assembly shall pass suitable laws for the safe-keeping, transfer and disbursement of the State school funds; and shall require all officers charged with the same or the safe-keeping thereof to give ample bonds for all moneys and funds received by them, and if any of said officers shall convert to his own use, in any number or form, or shall loan with or without interest or shall deposit in his own name, or otherwise than in the name of the State of North Dakota or shall deposit in any banks or with any person or persons, or exchange for other funds or property any portion of the school funds aforesaid, or purposely allow any portion of the same to remain in his own hands uninvested, except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned, or deposited, or exchanged, or withheld, and shall be a felony; and any failure to pay over, produce or account for the State school funds or any part of the same entrusted to any such officer, as by law required or demanded, shall be held and be taken to be prima facie evidence of such embezzlement.

CONSTITUTION OF OHIO—1914

Section 1. The principal of all funds arising from the sale or other disposition of lands or other property granted or entrusted to this State for educational or religious purposes shall forever be preserved inviolate and undiminished, and the income arising therefrom shall be faithfully applied to the specified objects of the original grants.

Section 2. The General Assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school trust fund, will insure a thorough and efficient system of common schools throughout the State; but no religious or other sect or sects shall ever have any exclusive right or control of any part of the school fund.

Section 3. Provision shall be made by law for the organization, administration and control of the public school system of the State supported by public funds, provided that each school district embraced wholly or in part within any city shall have the power of referendum vote to determine for itself the number of members and the organization of the

district board of education, and provision shall be made by law for the exercise of this power by such school districts. (Adopted September 3, 1912.)

Section 4. A superintendent of public instruction, to replace the State commissioner of common schools, shall be included as one of the officers of the executive department to be appointed by the Governor for the term of four years, with powers and duties now exercised by the State commissioner of common schools, until otherwise provided by law and with such powers as may be provided by law. (Adopted September 3, 1912.)

OKLAHOMA CONSTITUTION—1907

Article XIII—*Schools—Public Education.*

Section 1. Free Public Schools. The Legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated.

Section 2. Deaf, dumb and blind—institutions. The Legislature shall provide for the establishment and support of institutions for the care and education of the deaf, dumb and blind of the State.

Section 3. Separate schools. Separate schools for white and colored children with like accommodations shall be provided by the Legislature and impartially maintained. The term "colored children" as used in this section shall be construed to mean children of African descent. The term "white children" shall include all other children.

Section 4. Compulsory education. The Legislature shall provide for the compulsory attendance at some public or other school, unless other means of education are provided, of all the children in the State who are sound in mind and body between the ages of 8 and 16 for at least three months in each year.

Section 5. State board of education. The supervision of instruction in the public schools shall be vested in a board of education, whose powers and duties shall be prescribed by law. The superintendent of public instruction shall be president of the board. Until otherwise provided by law, the governor, secretary of state and attorney general shall be ex-officio members, and with the superintendent, compose said board of education.

Section 6. Text-books—uniform system. The Legislature shall provide for a uniform system of text-books for the common schools of the State.

Section 7. The Legislature shall provide for the teaching of the elements of agriculture, horticulture, stock feeding, and domestic science in the common schools of the State.

Article V. Section 46. Limitations as to special and local laws—The Legislature shall not, except as otherwise provided in this constitution, pass any local or special law authorizing:

(b) Local Affairs.—Regulating the affairs of counties, cities, towns, wards, or school districts.

(q) Public Schools.—School houses—Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes.

Article X. Section 9. *Total tax on an ad valorem basis for all purposes, including State, county, township and city or town and school district—additional schools.*

Except as herein otherwise provided, the total taxes on an ad valorem basis, for all purposes, State, county, township, city or town, and school

district taxes, shall not exceed in any one year thirty-one and one-half mills on the dollar, to be divided as follows:

State levy not more than three and one-half mills;

county levy not more than eight mills: Provided, That any county may levy not exceeding two mills additional for county high school and aid to the common schools of the county, not over one mill of which shall be for such high school, and the aid to said common schools shall be apportioned as provided by law;

township levy not more than five mills;

city or town levy, not more than ten mills;

school district levy, not more than five mills on the dollar for school district purposes, for support of common schools: Provided, That the aforesaid annual rate for school purposes may be increased by any school district by an amount not to exceed ten mills on the dollar valuation, on condition that a majority of the voters thereof voting at an election vote for said increase.

Article X. Section 10. *To erect public buildings in counties, cities or school district—tax limit may be increased.*

For the purpose of erecting public buildings in counties, cities or school districts, the rate of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and a majority of the qualified voters of such counties, cities, or school districts, voting at such election, shall vote therefor: Provided, That such increase shall not exceed five mills on the dollar of the assessed value of the taxable property in such county, city, or school district.

Article XI. Section 2. *Permanent common school fund*—All proceeds of the sale of public lands that have heretofore been or may be hereafter given by the United States for the benefit of the common schools of this State, all such per centum as may be granted by the United States on the sales of public lands, the sum of five million dollars appropriated to the State for the use and benefit of the common schools in lieu of Sections 16 and 36, and other lands of the Indian Territory, the proceeds of all property that shall fall to the State by escheat, the proceeds of all gifts or donations to the State for common schools not otherwise appropriated by the terms of the gifts, and such other appropriations, gifts, or donations as shall be made by the legislature for the benefit of the common schools, shall constitute the permanent school fund, the income from which shall be used for the maintenance of the common schools in the State. The principal shall be deemed a trust fund held by the State, and shall forever remain inviolate. It may be increased, but shall never be diminished. The State shall reimburse said permanent school fund for all losses thereof which may in any manner occur, and no portion of said fund shall be diverted for any other use or purpose.

Section 3. *For common schools only*—The interest or income of the permanent school fund, the net income from the leases of public lands which have been or may be granted by the United States to the State for the use and benefit of the common schools, together with any revenue derived from taxes authorized to be levied for such purposes, and any other sums which may be added thereto by law, shall be used and applied each year for the benefit of the common schools of the State, and shall be, for this purpose, apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, and no part of the fund shall ever be diverted from this purpose, or used for any other purpose than the support and maintenance of common schools for the equal benefit of all the people of the State.

Section 5. *Lands for educational institutions.* Section 13 in every portion of the State which has been granted to the State, shall be preserved for the use and benefit of the University of Oklahoma and the University Preparatory School, one-third; of the normal schools now established or hereafter to be established, one-third; and of the agricultural and mechanical college and colored agricultural and normal university one-third. The said lands or the proceeds thereof as above apportioned to be divided between the institutions as the legislature may prescribe; Provided, That the said lands so reserved or the proceeds of the sale thereof, or of any indemnity lands granted in lieu of section 13 shall be safely kept or invested and preserved by the State as a trust, which shall never be diminished, but may be added to, and the income thereof, interest, rentals or otherwise, only shall be used exclusively for the benefit of said educational institutions. Such educational institutions shall remain under the exclusive control of the State, and no part of the proceeds arising from the sale or disposal of any lands granted for educational purposes, or the income or rental thereof, shall be used for the support of any religious or sectarian school, college or university, and no portion of the funds arising from the sale of sections 13 or any indemnity lands selected in lieu thereof, either principal or interest, shall ever be diverted either temporarily or permanently from the purpose for which said lands were granted to the State.

Section 6. *Common School and Educational—Permanent Fund—Investment*—The permanent common school and other educational funds shall be invested in the first mortgages upon good and improved farm land within the State (and in no case shall more than fifty per centum of the reasonable valuation of lands without improvement be loaned on any tract), Oklahoma State Bonds, county bonds, of the counties of Oklahoma, school district bonds of the school districts of Oklahoma, United States bonds; preference to be given to the securities in the order named.

The legislature shall provide the manner of selecting the securities aforesaid, prescribe the rules, regulations, restrictions and conditions upon which the funds aforesaid shall be loaned or invested, and do all things necessary for the safety of the fund and the permanency of the investment.

CONSTITUTION OF OREGON—Amended to 1902

Education and School Lands

Article VIII

Section 1. The Governor shall be superintendent of public instruction and his powers and duties in that capacity shall be such as may be prescribed by law; but after the term of five years from the adoption of this constitution (1857) it shall be competent for the legislative assembly to provide by law for the election of a superintendent, to provide for his compensation and prescribe his powers and duties.

Section 2. The proceeds of all the lands which have been or hereafter may be, granted to this State for educational purposes (excepting the lands heretofore granted to aid in the establishment of a university): all the moneys and clear proceeds of all property which may accrue to the State by escheat or forfeiture; all moneys which may be paid as exemption from military duty; the proceeds of all gifts, devises and bequests made by any person to the State for common school purposes; the proceeds of all property granted to the State, when the purposes of such grants shall not be stated; all the proceeds of the five hundred thousand acres of land to

which the State is entitled by the provisions of an Act of Congress, entitled "An Act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights," approved the fourth of September, 1841; and also the five per centum of the net proceeds of the sales of the public lands to which this State shall become entitled on her admission into the Union (if Congress shall assent to such appropriation of the two grants last mentioned), shall be set apart as a separate and irreducible fund, to be called the common-school fund, the interest of which, together with all other revenues derived from the school lands mentioned in this section, shall be exclusively applied to the support and maintenance of common schools in each school district, and purchase of suitable libraries and apparatus therefor.

Section 3. The legislative assembly shall provide by law for the establishment of a uniform and regular system of common schools.

Section 4. Provision shall be made by law for the distribution of the income of the common-school fund among the several counties of the State, in proportion to the number of children resident therein between the ages of four and twenty years.

Section 5. The Governor, Secretary of State and State Treasurer shall constitute a board of commissioners for the sale of school and university lands, and for the investment of the funds arising therefrom, and their powers and duties shall be such as may be prescribed by law. Provided, that no part of the university funds, or of the interest arising therefrom, shall be expended until the period of ten years from the adoption of this constitution, unless the same shall be disposed of by the consent of Congress, for common-school purposes.

CONSTITUTION OF PENNSYLVANIA—Amended to November 7, 1911

Article X

Section 1. *Public School System.* The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth above the age of six years may be educated, and shall appropriate at least one million dollars each year for that purpose.

Section 2. *Diversion of School Moneys to Sectarian Schools.* No money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school.

Section 3. *Women Eligible as School Officers.* Women twenty-one years of age and upwards shall be eligible to any office of control or management under the school laws of this State.

Article III

Section 7. *Special and Local Legislation Limited.* The General Assembly shall not pass any local or special law:

Regulating the affairs of counties, cities, townships, wards, boroughs or school districts.

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes.

Erecting new townships or boroughs, changing township lines, borough limits or school districts.

Creating offices or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts.

Section 17. *Appropriations to Charitable and Educational Institutions.* No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, other than normal

schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House.

Article IV

Section 1. *Executive Department.* The Executive Department of this Commonwealth shall consist of a Governor, Lieutenant-Governor, Secretary of the Commonwealth, Attorney-General, Auditor-General, State Treasurer, Secretary of Internal Affairs and a Superintendent of Public Instruction.

Section 8. *Appointing Power of Governor. Vacancies. Confirmation by the Senate.* He shall nominate, and by and with the advice and consent of two-thirds of all the members of the Senate, appoint a Secretary of the Commonwealth and an Attorney-General during pleasure, a Superintendent of Public Instruction for four years, and such other officers of the Commonwealth as he is or may be authorized by the constitution or by law to appoint; he shall have power to fill all vacancies that may happen in offices to which he may appoint, during the recess of the Senate, by granting commissions which shall expire at the end of their next session; he shall have power to fill any vacancy that may happen, during the recess of the Senate, in the office of the Auditor-General, State Treasurer, Secretary of Internal Affairs or Superintendent of Public Instruction, in a judicial office, or in any other elective office which he is or may be authorized to fill; if the vacancy shall happen during the session of the Senate, the Governor shall nominate to the Senate, before their final adjournment, a proper person to fill said vacancy; but in any such case of vacancy in an elective office a person shall be chosen to said office on the next election day appropriate to such office according to the provisions of this constitution, unless the vacancy shall happen within two calendar months immediately preceding such election day, in which case the election for said office shall be held on the second succeeding election day appropriate to such office. In acting on executive nominations the Senate shall sit with open doors, and in confirming or rejecting the nominations of the Governor the vote shall be taken by yeas and nays and shall be entered on the journal.

(Amendment of November 2, 1909.)

Article VI

Section 4. *Tenure of Office. Removals from Office.* All officers shall hold their office on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed officers, other than judges of the courts of record and the Superintendent of Public Instruction, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except Governor, Lieutenant-Governor, members of the General Assembly and judges of the courts of record learned in the law, shall be removed by the Governor for reasonable cause after due notice and full hearing, on the address of two-thirds of the Senate.

CONSTITUTION OF RHODE ISLAND

Article XII

Section 1. The diffusion of knowledge, as well as of virtue, among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education.

Section 2. The money which now is or which may hereafter be appropriated by law for the establishment of a permanent fund for the support

of public schools, shall be securely invested, and remain a perpetual fund for that purpose.

Section 3. All donations for the support of public schools, or for other purposes of education, which may be received by the general assembly, shall be applied according to the terms prescribed by the donors.

Section 4. The general assembly shall make all necessary provisions by law for carrying this article into effect. They shall not divert said money or fund from the aforesaid uses, nor borrow, appropriate, or use the same, or any part thereof, for any other purpose under any pretense whatsoever.

CONSTITUTION OF SOUTH CAROLINA—Amended to 1914

Article XI

Section 1. The supervision of public instruction shall be vested in a State superintendent of education, who shall be elected for the term of two years by the qualified electors of the State, in such manner and at such time as the other State officers are elected: his powers, duties and compensation shall be defined by the General Assembly.

Section 2. There shall be a State Board of Education, composed of the Governor, the State Superintendent of Education, and not exceeding seven persons to be appointed by the Governor every four years, of which Board the Governor shall be chairman, and the State Superintendent of Education secretary. This Board shall have the regulation of examination of teachers applying for certificates of qualification, and shall award all scholarships, and have such other powers and duties as may be determined by law. The traveling expenses of the persons to be appointed shall be provided for by the General Assembly.

Section 3. The General Assembly shall make provision for the election or appointment of all other necessary school officers, and shall define their qualifications, powers, duties, compensation and terms of office.

Section 4. The salaries of the State and county school officers and compensation of county treasurers for collecting and disbursing school moneys shall not be paid out of the school funds, but shall be otherwise provided for by the General Assembly.

Section 5. The General Assembly shall provide for a liberal system of free public schools for all children between the ages of 6 and 21 years, and for the division of the counties into suitable school districts, as compact in form as practicable, having regard to natural boundaries, and not to exceed forty-nine or be less than nine square miles in area: Provided, that in cities of 10,000 inhabitants and over, this limitation of area shall not apply: Provided further, that when any school district laid out under this section shall embrace cities or towns already organized into special school districts in which graded school buildings have been erected by the issue of bonds, or by special taxation, or by donation, all the territory included in said school district shall bear its just proportion of any tax that may be levied to liquidate such bonds or support the public schools therein: Provided further, that nothing in this article contained shall be construed as a repeal of the laws under which the several graded school districts of this State are organized. The present division of the counties into school districts and the provisions of law now governing the same shall remain until changed by the General Assembly.

Section 6. The existing county boards of commissioners of the several counties, or such officer or officers as may hereafter be vested with the same or similar powers and duties, shall levy an annual tax of three mills on the dollar upon all the taxable property in their respective counties, which tax shall be collected at the same time and by the same officers as the other

taxes for the same year, and shall be held in the county treasury of the respective counties; and the said fund shall be apportioned among the school districts of the county in proportion to the number of pupils enrolled in the public schools of the respective districts, and the officer or officers charged by law with making said apportionment shall notify the trustees of the respective school districts thereof, who shall spend and disburse the same as the General Assembly may prescribe. The General Assembly shall define "enrollment." Not less than three trustees for each school district shall be selected from the qualified voters and taxpayers therein, in such manner and for such terms as the General Assembly may determine, except in cases of special school districts now existing, where the provisions of law now governing the same shall remain until changed by the General Assembly. Provided, the manner of the selection of said trustees need not be uniform throughout the State. There shall be assessed on all taxable polls in the State between the ages of 21 and 60 years (excepting Confederate soldiers above the age of 50 years), an annual tax of one dollar on each poll, the proceeds of which tax shall be expended for school purposes in the several school districts in which it is collected. Whenever during the three next ensuing fiscal years the tax levied by the said county boards of commissioners or similar officers, and the poll tax, shall not yield an amount equal to three dollars per capita of the number of children enrolled in the public schools of each county for the scholastic year ending the 31st day of October in the year 1895, as it appears in the report of the State Superintendent of Education for said scholastic year, the Comptroller-General shall, for the aforesaid three next ensuing fiscal years, on the first day of each of said years, levy such an annual tax on the taxable property of the State as he may determine to be necessary to make up such deficiency, to be collected as other State taxes, and apportion the same among the counties of the State in proportion to the respective deficiencies therein. The sum so apportioned shall be paid by the State treasurer to the respective counties, in proportion to the respective deficiencies therein, on the warrant of the Comptroller-General, and shall be apportioned among the school districts of the counties, and disbursed as other school funds; and from and after the 31st day of December, in the year 1898, the General Assembly shall cause to be levied annually on all the taxable property of the State such a tax, in addition to the said tax levied by the said County Board of Commissioners or similar officers, and poll tax above provided, as may be necessary to keep the schools open throughout the State for such length of time in each scholastic year as the General Assembly may prescribe; and said tax shall be apportioned among the counties in proportion to the deficiencies therein and disbursed as other school funds. Any school district may by the authority of the General Assembly levy an additional tax for the support of its schools.

Section 7. Separate schools shall be provided for children of the white and colored races, and no child of either race shall ever be permitted to attend a school provided for children of the other race.

Section 8. The General Assembly may provide for the maintenance of Clemson Agricultural College, the University of South Carolina and the Winthrop Normal and Industrial College, a branch thereof, as now established by law, and may create scholarships therein: the proceeds realized from the land scrip given by the Act of Congress passed the second day of July in the year 1862, for the support of an agricultural college, and any lands or funds which have heretofore been or may hereafter be given or appropriated for educational purposes by the Congress of the United States, shall be applied as directed in the acts appropriating the same; Provided, That the General Assembly shall, as soon as practicable, wholly separate Claflin College from Claflin University and provide for a separate

corps of professors and instructors therein, representation to be given to men and women of the negro race; and it shall be the Colored Normal, Industrial, Agricultural and Mechanical College of the State.

Section 9. The property or credit of the State of South Carolina, or of any county, city, town, township, school district or other subdivision of the said State, or any public money, from whatever source derived, shall not, by gift, donation, loan, contract, appropriation or otherwise, be used directly or indirectly, in aid or maintenance of any college, school, hospital, orphan house or other institution, society or organization, of whatever kind, which is wholly or in part under the direction or control of any religious or sectarian denomination, society or organization.

Section 10. All gifts of every kind for educational purposes, if accepted by the General Assembly, shall be applied and used for the purposes designated by the giver, unless the same be in conflict with the provisions of this constitution.

Section 11. All gifts to the State where the purpose is not designated, all escheated property, the net assets or funds of all estates or copartnerships in the hands of the courts of the State where there have been no claimants for the same within the last seventy years, and other money coming into the treasury of the State by reason of the twelfth section of an act entitled, "An Act to provide a mode of distribution of the moneys as direct tax from the citizens of this State by the United States in trust to the State of South Carolina," approved the 24th day of December in the year 1891, together with such other means as the General Assembly may provide, shall be securely invested as the State school fund, and the annual income thereof shall be apportioned by the General Assembly for the purpose of maintaining public schools.

Section 12. All the net income to be derived by the State from the sale or license for the sale of 'spirituous, malt, vinous and intoxicating liquors and beverages, not including so much thereof as is now or may hereafter be allowed by law to go to the counties and municipal corporations of the State, shall be applied annually in aid of the supplementary taxes provided for in the sixth section of this article; and if after said application there should be a surplus, it shall be devoted to public school purposes, and apportioned as the General Assembly may determine; Provided, however, that the said supplementary taxes shall only be levied when the net income aforesaid from the sale or license for the sale of alcoholic liquors or beverages are not sufficient to meet and equalize the deficiencies for which the said supplementary taxes are provided.

SOUTH DAKOTA CONSTITUTION—Amended to 1898

Article VIII

Education and School Lands

Section 1. The stability of a republican form of government depending on the morality and intelligence of the people it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education.

Section 2. All proceeds of the sale of public lands that have heretofore been or may hereafter be given by the United States for the use of public schools in the State; all such per centum as may be granted by the United States on the sales of public lands; the proceeds of all property that shall fall to the State by escheat; the proceeds of all gifts or donations to the

State for public schools or not otherwise appropriated by the terms of the gift; and all property otherwise acquired for public schools, shall be and remain a perpetual fund for the maintenance of public schools in the State. It shall be deemed a trust fund held by the State. The principal shall forever remain inviolate, and may be increased, but shall never be diminished, and the State shall make good all losses thereof which may in any manner occur.

Section 3. The interest and income of this fund, together with the net proceeds of all fines for violation of State laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the State, and shall be for this purpose apportioned among and between all the several public school corporations of the State in proportion to the number of children in each of school age, as may be fixed by law; and no part of the fund, either principal or interest, shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the State.

Section 4. After one year from the assembling of the first legislature, the lands granted to the State by the United States for the use of public schools may be sold upon the following conditions and no other: Not more than one-third of all such lands shall be sold within the first five years, and no more than two-thirds within the first fifteen years after the title thereto is vested in the State, and the legislature shall, subject to the provisions of this article, provide for the sale of the same.

The commissioner of school and public lands, the State auditor and the county superintendent of schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands within the several counties which they may from time to time select and designate for sale, at their actual value under the terms of sale. They shall take care to first select and designate for sale the most valuable lands; and they shall ascertain all such lands as may be of special and peculiar value, other than agricultural, and cause the proper subdivision of the same in order that the largest price may be obtained therefor.

Section 5. No land shall be sold for less than the appraised value, and in no case for less than ten dollars an acre. The purchaser shall pay one-fourth of the price in cash, and the remaining three-fourths as follows: One-fourth in five years, one-fourth in ten years and one-fourth in fifteen years; with interest thereon at the rate of not less than six per centum, payable annually in advance, but all such subdivided lands may be sold for cash, provided that upon payment of the interest for one full year in advance the balance of the purchase price may be paid at any time. All sales shall be at public auction to the highest bidder, after 60 days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of not more than eighty acres, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within four years after appraisal shall be reappraised by the board of appraisal as hereinbefore provided before they are sold.

Section 6. All sales shall be conducted through the office of the commissioner of schools and public lands as may be prescribed by law, and returns of all appraisals and sales shall be made to said office. No sale shall operate to convey any right or title to any lands for sixty days after the date thereof, nor until the same shall have received the approval of the governor in such form as may be provided by law. No grant or patent for any such lands shall issue until final payment be made.

Section 7. All lands, money or other property donated, granted or re-

ceived from the United States or any other source for a university, agricultural college, normal school or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the State, and the State shall make good all losses therefrom that shall in any manner occur.

Section 8. All lands mentioned in the preceding section shall be appraised and sold in the manner and by the same officers and boards under the same limitations and subject to the same conditions as to price, sale and approval provided above for the appraisal and sale of lands for the benefit of public schools, but a distinct and separate account shall be kept by the proper officers of each of such funds.

Section 9. No lands mentioned in this article shall be leased except for pasturage and meadow purposes and at public auction after notice as hereinbefore provided in case of sale and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the governor.

Section 10. No claim to any public lands by any trespasser thereon by reason of occupancy, cultivation or improvement thereof shall ever be recognized; nor shall compensation ever be made on account of any improvements made by such trespasser.

Section 11. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this State as hereinafter provided, or in bonds of school corporations within the State, or in bonds of the United States, or of the State of South Dakota. The legislature shall provide by law the method of determining the amounts of said funds which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations shall for such purpose be divided among the organized counties of the State in proportion to population as nearly as provisions by law to secure continuous investments may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss of any money so appropriated to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, or in first mortgages upon good improved farm lands within their limits respectively; but no farm loan shall exceed \$500 to any one person, nor shall it exceed one-half the valuation of the lands as assessed for taxation, and the rate of interest shall not be less than 6 per centum per annum, and shall be such other and higher rate as the legislature may provide, and shall be payable semi-annually on the first days of January and July; provided, that whenever there are moneys of said funds in any county amounting to \$1,000 that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the State treasurer to

be entrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds intrusted to it to the auditor of State, and at the same time pay to or account to the State treasurer for the interest due on all funds intrusted to it.

The legislature may provide by general law that counties may retain from interest collected in excess of six per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the State treasury of interest at the rate provided by the law for such loans, except only said one per centum, and in no case shall the interest so to be paid be less than six per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school and other educational funds, and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

Section 12. The governor may disapprove any sale, lease or investment other than such as are intrusted to the counties.

Section 13. All losses to the permanent school or other educational funds of this State which shall have been occasioned by the defalcation, negligence, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State in favor of the fund sustaining the loss upon which not less than six per centum annual interest shall be paid. The amount of indebtedness so created shall not be counted as a part of the indebtedness mentioned in Article XIII, Section 2.

Section 14. The legislature shall provide by law for the protection of the school lands from trespass or unlawful appropriation, and for their defense against all unauthorized claims or efforts to divert them from the school fund.

Section 15. The legislature shall make such provisions by general taxation, and by authorizing the school corporations to levy such additional taxes as with the income from the permanent school fund shall secure a thorough and efficient system of common schools through the State.

Section 16. No appropriation of land, or other property or credits to aid any sectarian school shall ever be made by the State, or any county or municipality within the State, nor shall the State or any county or municipality within the State accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the State.

Section 17. No teacher, State, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this State, under such penalties as shall be provided by law.

Amendments, November 4, 1902

Article VIII, Section 2. The rate of interest upon all investments of the permanent school or other educational funds mentioned in Section 2 of Article VIII of the constitution of this State is hereby changed and reduced from six per centum per annum to five per centum per annum, wherever the said words "six per centum per annum" occur in said section. That if the foregoing amendment shall be approved and ratified by the

people at said election, as provided by Article XXIII of the constitution, said Section 2 of Article VIII of the constitution shall be thereby amended by striking out the said words, "six per centum per annum" wherever they occur in said Section 2 and substituting in lieu thereof the words "five per centum per annum."

Amendments, November 8, 1904

Article VIII, Section 2. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this State, as hereinafter provided, or in bonds of school corporations within this State, or in bonds of the United States or of the State of South Dakota, or of any organized county, township or incorporated city in said State. The legislature shall provide by law the method of determining the amount of said funds, which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, or in bonds or organized counties, townships or incorporated cities within this State, shall for such purpose be divided among the organized counties of the State in proportion to population as nearly as provisions by law to secure continuous investment may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss of any money so apportioned to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, counties, townships or cities, or in first mortgages upon good improved farm lands within their limits respectively. The amount of each loan shall not exceed one-third of the actual value of the lands covered by the mortgage given to secure the same, such value to be determined by the board of county commissioners of the county in which the land is situated, and in no case shall more than five thousand dollars (\$5,000) be loaned to any one person, firm or corporation, and the rate of interest shall not be less than five per cent. per annum, and shall be such other and higher rate as the legislature may provide, and shall be payable semi-annually on the first day of January and July; provided, that whenever there are moneys of said fund in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section, and any law pursuant thereto, the said sum may be returned to the State treasurer to be intrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds intrusted to it to the auditor of the State, and at the same time pay to or account to the State treasurer for the interest due on all funds intrusted to it.

The legislature may provide by general law that counties may retain from interest collected in excess of five per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the State treasurer of interest at the rate provided by law for such loans, except only said one per centum, and in no case shall the interest, so to be paid, be less than five per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school or other educational funds and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

CONSTITUTION OF TENNESSEE—ADOPTED 1870

Section 12. Education to be cherished; common school fund; poll tax; whites and negroes; colleges, etc., rights of.

Knowledge, learning, and virtue being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State, being highly conducive to the promotion of this end, it shall be the duty of the General Assembly, in all future periods of this government, to cherish literature and science. And the fund called the common school fund, and all the lands and proceeds thereof, dividends, stocks, and other property of every description whatever, heretofore by law appropriated, by the General Assembly of this State for the use of common schools, and all such as shall hereafter be appropriated, shall remain a perpetual fund, the principal of which shall never be diminished by legislative appropriations; and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools throughout the State, and for the equal benefit of all the people thereof; and no law shall be made authorizing said fund or any part thereof to be diverted to any other use than the support and encouragement of common schools. The State taxes derived hereafter from polls shall be appropriated to educational purposes, in such manner as the General Assembly shall, from time to time, direct by law. No school established or aided under this section shall allow white and negro children to be received as scholars together in the same school. The above provisions shall not prevent the Legislature from carrying into effect any laws that have been passed in favor of the colleges, universities, or academies, or from authorizing heirs or distributees to receive and enjoy escheated property under such laws as shall be passed from time to time.

NOTE.—A letter from the Secretary of State of Tennessee, dated April 11, 1911, states that no amendments have ever been adopted.

A subsequent note appears in volume "Letter December 10, 1913, states that no recent amendments were made."

TEXAS CONSTITUTION—AMENDED TO 1910

Article VII

Education—the Public Free Schools

Section 1. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

Section 2. All funds, lands and other property heretofore set apart and appropriated for the support of public schools, all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations, of any nature whatsoever, one-half of the public domain of the State, and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual school fund.

Section 3. There shall be set apart annually not more than one-fourth of the general revenue of the State, and a poll tax of one dollar on all male

inhabitants in this State between the ages of twenty-one and sixty years, for the benefit of the public free schools. (Const., 1876.)

Section 3. One-fourth of the revenue derived from the State occupation taxes, and a poll tax of one dollar on every male inhabitant of this State between the ages of 21 and 60 years, shall be set apart annually for the benefit of the public free schools, and, in addition thereto, there shall be levied and collected an annual ad valorem State tax of such amount, not to exceed 20 cents on the one hundred dollars valuation, as, with the available school fund arising from all other sources, will be sufficient to maintain and support the public free schools of this State for a period of not less than 6 months in each year; and the Legislature may also provide for the formation of school districts within all or any of the counties of this State, by general or special law, without the local notice required in other cases of special legislature, and may authorize an additional annual ad valorem tax to be levied and collected within such school districts for the further maintenance of public free schools and the erection of school buildings therein; PROVIDED, that two-thirds of the qualified property tax-paying voters of the district, voting at an election to be held for that purpose, shall vote such tax, not to exceed in any one year 20 cents on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the payment of district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts. (Amend. 1883.)

Section 3. One-fourth of the revenue derived from the State occupation taxes and a poll tax of one dollar on every male inhabitant of this State between the ages of 21 and 60 years shall be set apart annually for the benefit of the public free schools, and in addition thereto there shall be levied and collected an annual ad valorem State tax of such amount not to exceed 20 cents on the one hundred dollars valuation, as with the available school fund arising from all other sources, will be sufficient to maintain and support the public free schools of this State for a period of not less than 6 months in each year, and the Legislature may also provide for the formation of school districts within all or any of the counties of this State by general or special law, without the local notice required in other cases of special legislation, and may authorize an additional ad valorem tax to be levied and collected within such school districts for the further maintenance of public free schools, and the erection and equipment of school buildings therein; PROVIDED, that a majority of the qualified property taxpaying voters of the district, voting at an election to be held for that purpose, shall vote such tax, not to exceed in any one year 50 cents on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts. (Amd. 1908.)

(Section 3, Article 7, declared adopted September 24, 1909.)

Section 3. One-fourth of the revenue derived from the State occupation taxes and a poll tax of \$1 on every male inhabitant of this State between the ages of 21 and 60 years shall be set apart annually for the benefit of the public free schools, and in addition thereto there shall be levied and collected an annual ad valorem State tax of such an amount, not to exceed 20 cents on the \$100 valuation, as with the available school fund arising from all other sources, will be sufficient to maintain and support the public free schools of this State for a period of not less than 6 months in each year, and the Legislature may also provide for the formation of school districts by general or special law, without the local notice required in other cases of special legislation, and all such school districts, whether

created by general or special law may embrace parts of two or more counties. And the Legislature shall be authorized to pass laws for the assessment and collection of taxes in all said districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties. And the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts heretofore formed or hereafter formed for the further maintenance of public free schools, and the erection and equipment of school buildings therein, provided that a majority of the qualified property tax-paying voters of the district, voting at an election to be held for that purpose, shall vote such tax, not to exceed in any one year 50 cents on the \$100 valuation of the property subject to taxation in such district, but the limitation upon the amount of school district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts.

Section 3a. Every school district heretofore formed, whether formed under the general law or by special act, and whether the territory embraced within its boundaries lies wholly within a single county or partly in two or more counties, is hereby declared to be, and from its formation to have been, a valid and lawful district.

All bonds heretofore issued by any such districts which have been approved by the Attorney-General and registered by the Comptroller are hereby declared to be, and at the time of their issuance to have been, issued in conformity with the Constitution and laws of this State, and any and all such bonds are hereby in all things validated and declared to be valid and binding obligations upon the district or districts issuing same.

Each such district is hereby authorized to, and shall, annually levy and collect an ad valorem tax sufficient to pay the interest on all such bonds, and to provide a sinking fund sufficient to redeem the same at maturity, not to exceed such a rate as may be provided by law under other provisions of this Constitution. And all trustees heretofore elected in districts made up of more than one county are hereby declared to have been duly elected, and shall be and are hereby named as trustees of their respective districts, with power to levy the taxes herein authorized until their successors shall be duly elected and qualified as is or may be provided by law.

Section 4. The lands herein set apart to the public free school fund shall be sold under such regulations, at such times and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the Board of Education herein provided for, in the bonds of this State, if the same can be obtained, otherwise in United States bonds; and the United States bonds now belonging to said fund shall likewise be invested in State bonds, if the same can be obtained on terms advantageous to the school fund. (Const. 1876.)

(Section 4, Article 7, declared adopted September 25, 1883.)

Section 4. The lands herein set apart to the public free school fund shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the Legislature shall not have power to grant relief to purchasers thereof. The Comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the Board of Education herein provided for, in the bonds of the United States, the State of Texas, or counties of such State, or in such other securities and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.

Section 5. The principal of all bonds and other funds, and the principal arising from the sale of lands hereinbefore set apart to said school fund, shall be the permanent school fund; and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, which shall be applied annually to the support of the public free schools. And no laws shall ever be enacted appropriating any part of the permanent or available school fund to any purpose whatever; nor shall the same, or any part thereof, ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in manner as may be provided by law. (Const. 1876.)

(Section 5, Article 7, declared adopted September 22, 1891.)

Section 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund; and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, to which the Legislature may add not exceeding one per cent. annually of the total value of the permanent school fund; such value to be ascertained by the Board of Education until otherwise provided by law; and the available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law.

Section 6. All lands heretofore or hereafter granted to the several counties of this State for education, or schools, are of right the property of said counties respectively to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the commissioners court of the county. Actual settlers residing on said lands shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed 160 acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the State of Texas, or of the United States, and only the interest thereon to be used and expended annually. (Const. 1876.)

(Section 6, Article 7, declared adopted September 25, 1883.)

Section 6. All lands heretofore or hereafter granted to the several counties of this State for educational purposes are of right the property of said counties respectively to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in a manner to be provided by the commissioners court of the county. Actual settlers residing on said land shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed 160 acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public

schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon and other revenue, except the principal, shall be available fund.

Section 7. Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both.

Section 8. The Governor, Comptroller and Secretary of State shall constitute a board of education, who shall distribute said funds to the several counties and perform such other duties concerning public schools as may be prescribed by law.

CONSTITUTION OF UTAH—Amended to 1910

Article X

Section 1. *Free Non-Sectarian Schools.* The legislature shall provide for the establishment and maintaining of a uniform system of public schools, which shall be open to all children of the State, and be free from sectarian control.

Section 2. *Public School System, Maintenance.* The public school system shall include kindergarten schools, common schools consisting of primary and grammar grades, High Schools, an Agricultural College, a University and such other schools as the legislature may establish. The common schools shall be free. The other departments of the system shall be supported as provided by law. Provided that High Schools may be maintained free in all cities of the first and second class now constituting school districts and in such other cities and districts as may be designated by the legislature. But where the proportion of school moneys apportioned or accruing to any city or district shall not be sufficient to maintain all the free schools in such city or district, the High School shall be supported by local taxation.

Provided, that when any cities or districts shall establish High Schools, the legislature may authorize the use of State school funds to assist in supporting such schools, said funds being apportioned to the cities or districts concerned by the State board of education.

(Amendment adopted November 6, 1906.)

Section 3. *Declaring What Shall Constitute the State School Fund and Providing for the Apportionment of High School Funds.* The proceeds of all lands that have been or may be granted by the United States to this State for the support of the common schools; the proceeds of all property that may accrue to the State by escheat or forfeiture; all unclaimed shares and dividends of any corporation incorporated under the laws of this State; the proceeds of the sale of timber, mineral or other property from school and State lands, other than those granted for specific purposes; and five per centum of the net proceeds of the sale of public lands lying within the State, which shall be sold by the United States, subsequent to the admission of this State into the Union, shall be and remain a perpetual fund, to be called the State School Fund, the interest of which only, together with such other means as the legislature may provide, shall be distributed among the several school districts according to the school population residing therein. Provided, that all funds derived from any State tax for high schools shall be apportioned among the several cities and school districts according to the attendance at the high schools therein; but no city or district shall be entitled to any part of the fund derived from the State tax for high schools unless the high school fund therein is main-

tained upon the standard and for the period during the year that may be fixed by the State Board of Education.

(Amendment adopted November 8, 1910.)

Section 4. *University and Agricultural College Located, Rights, etc.* The location and establishment by existing laws of the University of Utah and the Agricultural College are hereby confirmed, and all the rights, immunities, franchises and endowments heretofore granted or conferred are hereby perpetuated unto said University and Agricultural College respectively.

Section 5. *Proceeds of Land Grants to Constitute Permanent Funds.* The proceeds of the sale of lands reserved by an Act of Congress approved February 21, 1855, for the establishment of the University of Utah, and of all the lands granted by an Act of Congress, approved July 16, 1894, shall constitute permanent funds, to be safely invested and held by the State; and the income thereof shall be used exclusively for the support and maintenance of the different institutions and colleges respectively, in accordance with the requirements and conditions of said Acts of Congress.

Section 6. *Separate Control of City Schools.* In cities of the first and second class, the public school system shall be maintained and controlled by the Board of Education of such cities, separate and apart from the counties in which said cities are located.

Section 7. *School Funds Guaranteed by State.* All public school funds shall be guaranteed by the State against loss or diversion.

Section 8. *State Board of Education.* The general control and supervision of the public school system shall be vested in a State Board of Education, consisting of the Superintendent of Public Instruction and such other persons as the legislature may provide.

Section 9. Neither the legislature nor the State Board of Education shall have power to prescribe text books to be used in the common schools.

Section 10. *Institutions for Deaf, Dumb and Blind. Property Fund.* Institutions for the Deaf and Dumb and for the Blind are hereby established. All property belonging to the school for the Deaf and Dumb heretofore connected with the University of Utah shall be transferred to said Institution for the Deaf and Dumb. All the proceeds of the lands granted by the United States for the support of a Deaf and Dumb Asylum, and for an Institution for the Blind, shall be a perpetual fund for the maintenance of said institutions. It shall be a trust fund, the principal of which shall remain inviolate, guaranteed by the State against loss by diversion.

Section 11. *Metric System.* The metric system shall be taught in the public schools of the State.

Section 12. *No Religious or Partisan Tests in Schools.* Neither religious or partisan test or qualification shall be required of any person as a condition of admission as teacher or student into any public educational institution of the State.

Section 13. *Public Aid to Church Schools Forbidden.* Neither the legislature, nor any county, city, town, school district or other public corporation shall make any appropriation to aid in the support of any school, seminary, academy, college, university or other institution, in whole or in part, by any church, sect or denomination whatever.

CONSTITUTION OF VERMONT—Amended to 1883

1777

Article XL. A school or schools shall be established in each town by the legislature for the convenient instruction of youth, with such salaries to

the masters paid by each town making proper use of school houses in each town, thereby enabling them to instruct youth at low prices. One grammar school in each county and one university in this State ought to be established by direction of the general assembly.

1786

Article XXXVIII. Laws for the encouragement of virtue and prevention of vice and immorality ought to be constantly kept in force and duly executed, and a competent number of schools ought to be maintained in each town for the convenient instruction of youth, and one or more grammar schools be incorporated and properly supported in each county in each State. And all religious societies or bodies of men that may be hereafter united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they in justice ought to enjoy, under such regulations as the general assembly of this State shall direct.

1791

Section 41. Laws for the encouragement of virtue and prevention of vice and immorality ought to be constantly kept in force and duly executed, and a competent number of schools ought to be maintained in each town for the instruction of youth; and one or more grammar schools be incorporated and properly supported in each county in this State. And all religious societies or bodies of men that may be hereafter united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they in justice ought to enjoy, under such regulations as the general assembly of the State shall direct.

CONSTITUTION OF VIRGINIA—Amended to 1912

Article IX

Education and Public Instruction

Section 129. The General Assembly shall establish and maintain an efficient system of public free schools throughout the State.

Section 130. The general supervision of the school system shall be vested in a State Board of Education composed of the Governor, Attorney General, Superintendent of Public Instruction, and three experienced educators to be elected quadrennially by the Senate, from a list of eligibles, consisting of one from each of the faculties, and nominated by the respective boards of visitors or trustees, of the University of Virginia, the Virginia Military Institute, the Virginia Polytechnic Institute, the State Female Normal School at Farmville, the School for the Deaf and Blind, and also of the College of William and Mary, so long as the State continues its annual appropriation to the last-named institution.

The board thus constituted shall select and associate with itself two division superintendents of schools, one from a county and the other from a city, who shall hold office for two years, and whose powers and duties shall be identical with those of other members, except that they shall not participate in the appointment of any public school official.

Any vacancy occurring during the term of any member of the board shall be filled for the unexpired term by said board.

Section 131. The Superintendent of Public Instruction, who shall be an experienced educator, shall be elected by the qualified voters of the

State at the same time and for the same term as the Governor. Any vacancy in said office shall be filled for the unexpired term by the said board.

His duties shall be prescribed by the State Board of Education, of which he shall be ex-officio president; and his compensation shall be fixed by law.

Section 132. The duties and powers of the State Board of Education shall be as follows:

First—It may, in its discretion, divide the State into appropriate school divisions, comprising not less than one county or city each, but no county or city shall be divided into formation of such divisions. It shall, subject to the confirmation of the Senate, appoint for each of such divisions, one superintendent of schools, who shall hold office for four years, and shall prescribe his duties, and may remove him for cause and upon notice.

Second—It shall have, regulated by law, the management and investment of the school fund.

Third—It shall have authority to make all needful rules and regulations for the management and conduct of the schools, which, when published and distributed, shall have the force and effect of law, subject to the authority of the General Assembly to revise, amend or repeal the same.

Fourth—It shall select text books and educational appliances for use in the schools of the State, exercising such discretion as it may see fit in the selection of books suitable for the schools in the cities and counties respectively.

Fifth—It shall appoint a board of directors, consisting of five members, to serve without compensation, which shall have the management of the State library and the appointment of a librarian and other employees thereof, subject to such rules and regulations as the General Assembly shall prescribe; but the Supreme Court of Appeals shall have the management of the law library and the appointment of the librarian and other employees thereof.

Section 133. Each magisterial district shall constitute a separate school district, unless otherwise provided by law. In each school district there shall be three trustees selected, in the manner and for the term of office prescribed by law.

Section 134. The General Assembly shall set apart, as a permanent and perpetual literary fund, the present literary fund of the State; the proceeds of all public lands donated by Congress for public free school purposes; of all escheated property; of all waste and unappropriated lands; of all property accruing to the State by forfeiture, and all fines collected for offenses committed against the State, and such other sums as the General Assembly may appropriate.

Section 135. The General Assembly shall apply the annual interest on the literary fund; that portion of the capitation tax provided for in the constitution to be paid into the State treasury, and not returnable to the counties and cities; and an annual tax on property of not less than one nor more than five mills on the dollar to the schools of the primary and grammar grades, for the equal benefit of all the people of the State, to be appropriated on a basis of school population; the number of children between the ages of seven and twenty years in each school district to be the basis of such apportionment, but if at any time the several kinds or classes of property shall be segregated for the purposes of taxation, so as to specify and determine upon what subjects State taxes and upon what subjects local taxes may be levied, then the General Assembly may otherwise provide a fixed appropriation of State revenues

to the support of the schools not less than that provided in this section.

Section 136. Each county, city, town, if the same be a separate school district, and school districts if authorized to raise additional sums by a tax on property, not to exceed in the aggregate five mills on the dollar in any one year, to be apportioned and expended by the local school authorities of said counties, cities, towns and districts in establishing and maintaining such schools as in their judgment the public welfare may require: provided, that such primary schools as may be established in any school year, shall be maintained at least four months of that school year, before any part of the fund assessed and collected may be devoted to the establishment of schools of higher grade. The boards of supervisors of the several counties, and the councils of the several cities and towns, if the same be separate school districts, shall provide for the levy and collection of such local school taxes.

Section 137. The General Assembly may establish agricultural, normal, manual training and technical schools, and such grades of schools as shall be for the public good.

Section 138. The General Assembly may, in its discretion, provide for the compulsory education of children between the ages of eight and twelve years, except such as are weak in body or mind, or can read and write, or are attending private schools, or are excused for cause by the district school trustee.

Section 139. Provision shall be made to supply children attending the public schools with the necessary text books in cases where the parent or guardian is unable, by reason of poverty, to furnish them.

Section 140. White and colored children shall not be taught in the same school.

Section 141. No appropriation of public funds shall be made to any school or institution of learning not owned or exclusively controlled by the State or some political subdivision thereof; provided, first, that the General Assembly may, in its discretion, continue the appropriations to the College of William and Mary. Second, that this section shall not be construed as requiring or prohibiting the continuance or discontinuance by the General Assembly of the payment of interest on certain bonds held by certain schools and colleges as provided by an Act of the General Assembly, approved February 23rd, 1892, relating to bonds held by schools and colleges; third, that counties, cities, towns and districts may make appropriations to non-sectarian schools of manual, industrial or technical training, and also to any school or institution of learning owned or exclusively controlled by such county, city, town or school district.

Section 142. Members of the boards of visitors or trustees of educational institutions shall be appointed as may be provided by law, and shall hold for the term of four years; provided, that at the first appointment, if the board be of an even number, one-half of them, or if an odd number, the least majority of them, shall be appointed for two years.

WASHINGTON CONSTITUTION—1889

Article IX

Education

Section 1. It is the paramount duty of the State to make ample provision for the education of all children residing within its borders,

without distinction or preference on account of race, color, caste or sex.

Section 2. The Legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools, and such high schools, normal schools, technical schools as may hereafter be established. But the entire revenue derived from the common school fund, and the State tax for common schools, shall be exclusively applied to the support of the common schools.

Section 3. The principal of the common school fund shall remain permanent and irreducible. The said fund shall be derived from the following-named sources, to wit: Appropriations and donations by the State to this fund; donations and bequests by individuals to the State or public for common schools; the proceeds of lands and other property which revert to the State by escheat and forfeiture; the proceeds of all property granted to the State, when the purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the State for the disbursement of which provision has not been made by law; the proceeds of the sale of timber, stone, minerals or other property from school and State lands, other than those granted to specific purposes; all moneys received from persons appropriating timber, stone, minerals or other property from school and State lands other than those granted for specific purposes, and all moneys other than rental recovered from persons trespassing on said lands; five per centum of the proceeds of the sale of public lands lying within the State, which shall be sold by the United States subsequent to the admission of the State into the Union as approved by Section 13 of the Act of Congress enabling the admission of the State into the Union; the principal of all funds arising from the sale of lands and other property which have been and hereafter may be granted to the State for the support of common schools. The Legislature may make further provisions for enlarging said fund. The interest accruing on said fund, together with all rentals and other revenues derived therefrom, and from lands and other property devoted to the common school fund, shall be exclusively applied to the current use of the common schools.

Section 4. All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.

Section 5. All losses to the permanent common school or any other State educational fund, which shall be occasioned by defalcation, mismanagement or fraud of the agents or officers controlling or managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State in favor of the particular fund sustaining such loss, upon which not less than 6 per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized and limited elsewhere in this constitution.

WEST VIRGINIA CONSTITUTION—Amended 1902

Article XII

1. The legislature shall provide, by general law, for a thorough and efficient system of free schools.

2. The State Superintendent of Free Schools shall have a general supervision of free schools, and perform such other duties in relation thereto as may be prescribed by law. If in the performance of any such duty imposed upon him by the legislature he shall incur any expenses, he shall be reimbursed therefor; PROVIDED, the amount does not exceed five hundred dollars in any one year.

3. The legislature may provide for, county superintendents and such other officers as may be necessary to carry out the objects of this article and define their duties, powers and compensation.

4. (This section is modified by the Irreducible School Fund Amendment.) See * * * The existing permanent and invested school fund, and all money accruing to this State from forfeited, delinquent, waste and unappropriated lands; and from lands heretofore sold for taxes and purchased by the State of Virginia, if hereafter redeemed or sold to others than this State; all grants, devises or bequests that may be made to this State, for the purposes of education or where the purposes of such grants, devises or bequests are not specified; this State's just share of the literary fund of Virginia, whether paid over or otherwise liquidated; and any sums of money, stocks or property which this State shall have the right to claim from the State of Virginia for educational purposes; the proceeds of the estates of persons who may die without leaving a will or heir, and of all escheated lands; the proceeds of any taxes that may be levied on the revenues of any corporations; all moneys that may be paid as an equivalent for exemption from military duty; and such sums as may from time to time be appropriated by the legislature for the purpose, shall be set apart as a separate fund to be called the "School Fund," and invested under such regulations as may be prescribed by law, in the interest bearing securities of the United States, or of this State, or if such interest bearing securities cannot be obtained, then said "School Fund" shall be invested in such other solvent, interest bearing securities as shall be approved by the Governor, Superintendent of Free Schools, Auditor and Treasurer, who are hereby constituted the "Board of the School Fund," to manage the same under such regulations as may be prescribed by law; and the interest thereof shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever. But any portion of said interest remaining unexpended at the close of a fiscal year shall be added to and remain a part of the capital of the "School Fund," PROVIDED, That all taxes which shall be received by the State upon delinquent lands, except the taxes due to the State thereon, shall be refunded to the county or district by or for which the same were levied.

* * * *The Irreducible School Fund Amendment.*

(Joint Resolution No. 11 (H. J. R. No. 28), Acts 1901, p. 465. Ratified in November, 1902.)

That the following be proposed as an amendment to the Constitution of the State:

The accumulation of the school fund provided for in section four of article twelve, of the Constitution of this State, shall cease upon the adoption of this amendment, and all money to the credit of said fund over one million dollars, together with the interest on said fund, shall be used for the support of the free schools of this State. All money and taxes heretofore payable into the treasury under the provision of the said section four, to the credit of the school fund, shall be hereafter paid into the treasury to the credit of the general school fund for the support of the free schools of the State.

5. The legislature shall provide for the support of free schools by appropriating thereto the interest of the invested "School Fund," the net proceeds of all forfeitures and fines accruing to this State under the laws thereof; the State capitation tax, and by general taxation of persons and property or otherwise. It shall also provide for raising in each county or district, by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as shall be prescribed by general laws.

6. The school districts into which any county is now divided shall continue until changed in pursuance of law.

7. All levies that may be laid by any county or district for the purpose of free schools shall be reported to the clerk of the county court; and shall, under such regulations as may be prescribed by law, be collected by the sheriff or other collector, who shall make annual settlement with the county court; which settlement shall be made a matter of record by the clerk thereof, in a book to be kept for that purpose.

8. White and colored persons shall not be taught in the same school.

9. No person connected with the free school system of the State, or with any educational institution of any name or grade under State control, shall be interested in the sale, proceeds or profits of any book or other thing used, or to be used therein, under such penalties as may be prescribed by law; PROVIDED, That nothing herein shall be construed to apply to any work written, or thing invented by such person.

10. No independent free school district, or organization shall hereafter be created, except with the consent of the school district or districts out of which the same is to be created, expressed by a majority of the voters voting on the question.

11. No appropriation shall hereafter be made to any State normal school, or branch thereof, except to those already established and in operation, or now chartered.

12. The legislature shall foster and encourage moral, intellectual, scientific and agricultural improvement; it shall, whenever it may be practicable, make suitable provision for the blind, mute and insane, and for the organization of such institutions of learning as the best interests of general education in the State may demand.

CONSTITUTION OF THE STATE OF WISCONSIN—1911

Article X

Education

Section 1 (as amended November 4, 1902). The supervision of public instruction shall be vested in a State superintendent and such other officers as the legislature shall direct; and their qualifications, powers, duties and compensation shall be prescribed by law. The State superintendent shall be chosen by the qualified electors of the State at the same time and in the same manner as members of the supreme court, and shall hold office for four years from the succeeding Monday in July. The State superintendent chosen at the general election in November, 1902, shall hold and continue in his office until the first Monday in July, 1905, and his successor shall be chosen at the time of the judicial election in April, 1905. The term of office, time and manner of electing or appointing all other officers of supervision of public instruction shall be fixed by law.

Section 2. The proceeds of all lands that have been or hereafter may be granted by the United States to this State for educational purposes, except the lands heretofore granted for the purposes of a University, and all moneys and the clear proceeds of all property that may accrue to the State by forfeiture or escheat, and all moneys which may be paid out as an equivalent for exemption from military duty; and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys arising from any grant to the State whether the purposes of such grant are not specified and the five hundred thousand acres of land to which the State is entitled by the provisions of an act of Congress en-

titled "An act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights," approved the fourth day of September, one thousand eight hundred and forty-one; and also the five per centum of the net proceeds of the public lands to which the State shall become entitled on her admission into the Union (if Congress shall consent to such appropriation of the two grants last mentioned) shall be set apart as a separate fund, to be called "The School Fund," the interest of which and all other revenues derived from school lands shall be exclusively applied to the following objects, to wit:

First. To support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus thereof.

Second. The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable libraries and apparatus therefor.

Section 3. The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years; and no sectarian instruction shall be allowed therein.

Section 4. Each town and city shall be required to raise by tax, annually, for the support of common schools therein, a sum not less than one-half the amount received by such town or city respectively for school purposes from the income of the school fund.

Section 5. Provision shall be made by law for the distribution of the income of the school fund among the several towns and cities of the State for the support of common schools therein, in some just proportion to the number of children and youth resident therein between the ages of four and twenty years, and no appropriation shall be made from the school fund to any city or town for the year in which said city or town shall fail to raise such tax; nor to any school district for the year in which a school shall not be maintained at least three months.

Section 6. Provision shall be made by law for the establishment of a State university, at or near the seat of the State government and for connecting with the same from time to time such colleges in different parts of the State as the interest of education may require. The proceeds of all lands that have been or hereafter may be granted by the United States to the State for the support of a university shall be and remain a perpetual fund, to be called "The University Fund," the interest of which shall be appropriated to the support of the State University, and no sectarian instruction shall be allowed in such university.

Section 7. The Secretary of State, Treasurer and Attorney-General shall constitute a board of commissioners for the sale of the School and University lands, and for the investment of the funds arising therefrom. Any two of said commissioners shall be a quorum for the transaction of all business pertaining to the duties of their office.

Section 8. Provision shall be made by law for the sale of all School and University lands, after they shall have been appraised; and when any portion of such lands shall be sold and the purchase money shall not be paid at the time of the sale, the commissioners shall take security by mortgage upon the land sold for the sum remaining unpaid, with seven per cent. interest thereon, payable annually at the office of the Treasurer. The commissioners shall be authorized to execute a good and sufficient conveyance to all purchasers of such lands, and to discharge any mortgages taken as security, when the sum due thereon shall have been made. The commissioners shall have power to withhold from sale any portion of such lands when they shall deem it expedient, and shall invest all moneys arising from

the sale of such lands, as well as all other University and School funds, in such manner as the legislature shall provide, and shall give such security for the faithful performance of their duties as may be required by law.

WYOMING CONSTITUTION—1889

Article VII

Education

Section 1. The Legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the State allow, and such other institutions as may be necessary.

Section 2. The following are declared to be perpetual funds for school purposes, of which the annual income only can be appropriated, to wit: Such per centum as has been or may hereafter be granted by Congress on the sale of lands in this State; all moneys arising from the sale or lease of sections number 16 and 36 in each township in the State, and the land selected or that may be selected in lieu thereof; the proceeds of all lands that have been or may hereafter be granted to this State, where by the terms and conditions of the grant, the same are not to be otherwise appropriated; the net proceeds of lands and other property and effects that may come to the State by escheat or forfeiture or from unclaimed dividends or distributive shares of the estates of deceased persons, all moneys, stocks, bonds, lands and other property now belonging to the common school fund.

Section 3. To the sources of revenue above mentioned shall be added all other grants, gifts and devises that have been or may hereafter be made to this State and not otherwise appropriated by the terms of the grant, gift or devise.

Section 4. All moneys, stocks, bonds, lands and other property belonging to a county school fund, except such moneys and property as may be provided by law for current use in aid of public schools, shall belong to and be securely invested and sacredly preserved in the several counties as a county public school fund, the income of which shall be appropriated exclusively to the use and support of free public schools in the several counties of the State.

Section 5. All fines and penalties under general laws of the State shall belong to the public school fund of the respective counties and be paid over to the custodians of such funds for the current support of the public schools therein.

Section 6. All funds belonging to the State for public school purposes, the interest and income of which only are to be used, shall be deemed trust funds in the care of the State, which shall keep them for the exclusive benefit of the public schools, and shall make good any losses that may in any manner occur, so that the same shall remain forever inviolate and undiminished. None of such funds shall ever be invested or loaned except on the bonds issued by school districts, or registered county bonds of the State, or State securities of this State, or of the United States.

Section 7. The income arising from the funds mentioned in the preceding section, together with all the rents of the unsold school lands and such other means as the Legislature may provide, shall be exclusively applied to the support of free schools in every county in the State.

Section 8. Provision shall be made by general law for the equitable distribution of such income among the several counties according to the number of children of school age in each; which several counties shall in like manner distribute the proportion of said fund by them received respectively to the several school districts embraced therein. But no appropriation shall be made from said fund to any district for the year in which a school has not been maintained for at least three months; nor shall any portion of any public school fund ever be used to support or assist any private school, or any school, academy, seminary, college or other institution of learning controlled by any church or sectarian organization or religious denomination whatsoever.

Section 9. The Legislature shall make such further provision by taxation or otherwise as with the income arising from the general school fund will create and maintain a thorough and efficient system of public schools, adequate to the proper instruction of all the youth of the State, between the ages of 6 and 21 years, free of charge; and in view of such provision so made, the Legislature shall require that every child of sufficient physical and mental ability shall attend a public school during the period between 6 and 18 years for a time equivalent to three years, unless educated by other means.

Section 10. In none of the public schools so established and maintained shall distinction or discrimination be made on account of sex, race or color.

Section 11. Neither the Legislature nor the superintendent of public instruction shall have power to prescribe text books to be used in the public schools.

Section 12. No sectarian instruction, qualifications or tests shall be imparted, exacted, applied or in any manner tolerated in the schools of any grade or character controlled by the State, nor shall attendance be required at any religious service therein, nor shall any sectarian tenets or doctrines be taught or favored in any public school or institution that may be established under this Constitution.

Section 13. The Governor, Secretary of State, State Treasurer and Superintendent of Public Instruction shall constitute the board of land commissioners, which, under the direction of the Legislature, as limited by this constitution, shall have the direction, control, leasing and disposal of the lands of the State, granted, or which may be hereafter granted for the support and benefit of public schools, subject to the further limitations that the sale of all lands shall be at public auction, after such delay (not less than the time fixed by Congress), in portions at proper intervals of time, and at such minimum prices (not less than the minimum fixed by Congress), as to realize the largest possible proceeds.

Section 14. The general supervision of the public schools shall be entrusted to the State Superintendent of Public Instruction, whose powers and duties shall be prescribed by law.

The University

Section 15. The establishment of the University of Wyoming is hereby confirmed, and said institution, with its several departments, is hereby declared to be the University of the State of Wyoming. All lands which have been heretofore granted or which may hereafter be granted by Congress unto the University as such, or in aid of the instruction to be given in any of its departments, with all other grants, donations, or devises for said university, or for any of its departments, shall vest in said university, and be exclusively used for the purposes for which they were granted, donated or devised. The said lands may be leased on terms

approved by the land commissioners, but may not be sold on terms not approved by Congress.

Section 16. The university shall be equally open to students of both sexes, irrespective of race or color, and, in order that the instruction furnished may be as nearly free as possible, any amount in addition to the income from its grants of lands and other sources above mentioned, necessary to its support and maintenance in a condition of full efficiency shall be raised by taxation or otherwise, under provisions of the Legislature.

Section 17. The Legislature shall provide by law for the management of the university, its lands and other property by a board of trustees, consisting of not less than seven members, to be appointed by the Governor by and with the advice and consent of the Senate, and the president of the university, and superintendent of public instruction, as members ex-officio, as such having the right to speak but not to vote. The duties and powers of the trustees shall be prescribed by law.

APPENDIX 2

GENERAL LAWS, REVISED STATUTES, ETC.

General Statutes of Connecticut.....	1909
Revised Statutes of Delaware.....	1893
Annotated Statutes of Illinois.....	1913
Indiana Statutes—Revision of.....	1908
McClain's Iowa Digest.....	1908
Kansas General Laws.....	1909
Revised Laws of Louisiana.....	1908
Revised Statutes of Maine.....	1903
Revised Statutes of Maryland.....	
Revised Laws of Massachusetts.....	1902
General Statutes Minnesota.....	1913
Revised Statutes Nebraska.....	1913
New Hampshire Public Statutes.....	1901
New Jersey Statutes.....	1910
Lord's Oregon Laws, Vol. II.....	
Pennsylvania Code.....	1913
Philadelphia Charter.....	1905
General Laws of Rhode Island.....	1909
Texas Civil Statutes.....	1913
Washington Code.....	1912
Wisconsin's Statutes.....	1913
Public Statutes of Vermont.....	1906

GENERAL STATUTES OF CONNECTICUT—1909

Title Twelve

Chapter 129

Section 2111. (Provision for creation of).

Section 2112. *Duties of State Board.* The board shall have general supervision and control of the educational interests of the State; may direct what books shall be used in all its schools, but shall not direct any book to be changed oftener than once in five years; shall prescribe the form of registers to be kept in said schools and the forms of blanks and inquiries for the returns to be made by the various school boards and committees; shall keep informed as to the condition and progress of the public schools in the State; and shall seek to improve the methods and promote the efficiency of teaching therein, by holding, at convenient places in the State, meetings of teachers and school officers, for the purpose of instructing in the best modes of administering, governing and teaching public schools, and by such other means as they shall deem appropriate; but the expenses incurred in such meetings shall not exceed the sum of three thousand dollars in any year. Said board shall, on or before the Monday after the first Wednesday in January in each year, submit to the Governor a report containing a printed abstract of said returns, a detailed statement of the doings of the board, and an account of the condition of the public schools, of the amount and quality of instruction therein, and such other

information as will apprise the General Assembly of the true condition, progress and needs of public education.

Section 2257. *Payments by the State.* The comptroller shall annually, as soon after the 28th of February as may be, draw orders for the support of the common schools at the rate of \$2.25 for each child between the ages of four and sixteen years on the enumeration last made and perfected, which orders shall be payable from the civil list funds of the State, and be divided and distributed among the several towns in proportion to the number of persons in each between said ages, as ascertained from said returns; and he shall transmit the amount distributed to each town to its treasurer, etc., etc.

REVISED STATUTES OF DELAWARE, REVISED TO 1893

An act providing for the appointment of a superintendent of free schools for each of the counties of this State

Section 1. That the offices of State Superintendent of free schools for this State shall be abolished from and after the expiration of the present incumbents, and in lieu thereof there shall be appointed a superintendent of free schools for each of the counties of this State.

Section 9. The Secretary of State * * * and the three superintendents provided for in this act shall constitute a State Board of Education for this State, who shall meet on the first Tuesday of January in each and every year in the capitol at Dover, at two o'clock in the afternoon.

The State Board of Education shall determine what text books are to be used in the free schools of this State.

School Fund

Chapter XLII

Section 2. The clear income of the school fund of this State is hereby appropriated and apportioned among the school districts as follows: Of the investments made of the surplus revenues fund, the dividends on the investment in five thousand shares of Farmers' Bank stock, made under act of February 21, 1837; and the interest on the loan of \$87,793.83 authorized by said act to be made to the "Wilmington and Susquehanna Railroad Company," now the "Philadelphia, Wilmington and Baltimore Railroad Company;" and the interest on the sum of five thousand dollars advanced to the county of Sussex under the act of February 17, 1837, shall be divided as they fall due among the counties equally; and all the clear dividends or profits to be declared or accrue upon any other bank stock, or other securities or property belonging to said fund, together with the clear sum arising from fees for marriage and tavern licenses, and any other income of said fund, or money directed by law to be paid to the trustee of said fund for distribution, shall be apportioned among the several counties according to their white population, as ascertained by the census of 1830.

Chap. 91, Vol. 18, Laws of Delaware: An Act to Encourage the Education of the Colored People, provides that:

"The levy courts in the several counties of this State be and they are hereby authorized and required annually, in the month of April, to lay and apportion a tax of thirty cents on the hundred dollars, and so pro rata upon the assessments of the real and personal property and poll of colored persons as they shall stand upon the assessment lists of the several hundreds, which shall be set apart as a separate and distinct fund for the support and maintenance of colored schools in this State."

"Section 4. The superintendents of Free Schools in each county shall have general control and supervision of the colored schools in their respective counties."

ILLINOIS—Annotated Statutes—1913

Par. 10022. *State Superintendent—Term of Office—Election.*

Section 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly; That on Tuesday next after the first Monday in November, 1910, and quadrennially thereafter, there shall be elected by the qualified voters in this State a Superintendent of Public Instruction, who shall hold his office for four years from the second Monday in January next after his election.

Par. 10024. *Duties of Superintendent*—To supervise all the common and public schools in the State. To counsel and confer, in such manner as he may deem best, with experienced and practical teachers as to the best manner of conducting common schools.

Par. 10227. *Annual Tax Levy—Limitation—Education—Building Purposes—Incidental Expenses—Election*—189. For the purpose of establishing and supporting free schools for not less than six nor more than nine months in each year, and defraying all the expenses of the same of every description; for the purpose of repairing and improving school houses, of procuring furniture, fuel, libraries and apparatus, and for all other necessary incidental expenses in each district, village or city, the directors of such district and the authorities of such village or city shall be authorized to levy a tax annually upon all the taxable property of the district, village or city not to exceed one and one-half per cent. for educational and one and one-half per cent. for building purposes, the valuation to be ascertained by the last assessment for State and county taxes; Provided, that the term incidental expenses herein used shall not include any sum expended or obligation incurred for the improvement, repair or benefit of the school buildings and property, but all such sums and obligations shall be paid from that portion of the tax levied for building purposes. No election or petition shall be necessary to authorize the levy of a tax for the ordinary repair and improvement of school buildings or grounds or for the payment of any special tax or special assessment levied upon such property.

Constitution of 1870, Art. IV., Sec. 22, ante, which prohibits the legislature from passing any local or special law providing for the management of common schools, is directed against special legislation on management of schools merely. Providing funds to carry on schools held not part of management of schools. *Speight v. People*, 87-595; *Fuller v. Heath*, 89-296, aff'g 1A. 118.

INDIANA STATUTES (BURNS') Revision of 1908

6309. *Indiana State Board of Education* (Act 1875). The Governor of the State, the State Superintendent of Public Instruction, the President of the State University, the President of Purdue University, the President of the State Normal School, the Superintendent of common schools of the three largest cities in the State, and three citizens of prominence actively engaged in educational work in the State, appointed by the Governor, etc., etc., shall constitute a board to be denominated the Indiana State Board of Education.

6310. The State Board shall perform such duties as are prescribed by law and make and adopt such rules and regulations as may be necessary for its own government * * * and shall take cognizance of such questions as may arise in the practical administration of the school system not otherwise provided for and duly consider, discuss and determine same.

6320. That the State board of education shall constitute a board of commissioners for the purpose of making a selection or procuring the

compilation for use in the common schools of the State of Indiana of a series of text books. (Description follows)

Acts 1905

6432. *Common Schools Tuition Fund.* There shall be in the year 1907 and annually thereafter assessed and collected, as State and county revenues are collected, thirteen cents and six mills on each \$100 worth of all taxable property, real and personal, in this State, and in addition thereto a poll tax of fifty cents upon each legal voter in the State, which money when collected shall be paid into the State treasury for a common school tuition fund, and shall be apportioned to the several counties in the manner provided in said act, section one of which is hereby amended. (As amended, acts of 1907) (This section supersedes prior laws fixing the general levy of taxes for common schools)

6433. *Apportionment of Fund.* The State Superintendent of Public Instruction shall * * * add to the sum total of said revenue any amount in the State treasury ready for apportionment, together with 94.8 of the sum collected by virtue of the levy provided for in Section 1 of this act, and after said addition the superintendent shall apportion the whole of said sum to the several counties of the State according to the latest enumeration of the children therein, etc.

6441. *Special Taxes.* The trustees of the several townships shall have power to levy special taxes * * * for the construction, renting or repairing of school houses, providing furniture, school apparatus and fuel therefor, etc., etc., including teachers' salaries, whenever in any current year the tuition funds shall have been exhausted; but no tax shall exceed the sum of fifty cents on each \$100 worth of taxable property, and one dollar on each poll in any one year, and the income from said tax shall be denominated the special school revenue.

6443. *Local Tuition Taxes.* That the school trustees of the several townships, towns and cities shall have power to levy annually a tax not exceeding fifty cents on each \$100 of taxable property and twenty-five cents on each taxable poll * * * and the revenues arising from such levy shall constitute a supplementary tuition fund to extend the terms of school in said townships, towns and cities after the tuition fund apportioned to said townships, towns and cities from said tuition revenues shall have been exhausted.

6539. *Taxation Levy Limit.* The board of school commissioners in any such city (100,000) is hereby authorized and empowered to levy annually, in addition to other taxes authorized by law, a special tax not exceeding five cents on each \$100 of taxable property in the State for the purchase of real estate and the erection and improvement of school buildings, etc.

IOWA DIGEST—McClain's Volume IV—down to 1908)

1. General Provisions

1. Constitutional Provisions.

The Legislature is given full power to make the needful regulations for the government of schools, and this power has been by the Legislature given to school boards.

4. High schools are deemed a part of the common school system of the State.

VII. Limitation of taxation

Section 344. The limit of taxation for school house fund as provided under code of 1873, section 1780 (see new code, Supp. Sec. 2806) of ten mills on the dollar includes the tax to pay judgments, etc.

Section 345. The limitation of taxation to ten mills does not limit the amount which may be voted to pay interest upon a bonded debt contracted for school house purposes, etc.

Section 346. There is no fixed limit to the rate of taxation when it is necessary to raise funds to meet the interest and principal on bonds lawfully issued under authority of a vote of the electors of the school district. The supervisor may be compelled to levy any tax for that purpose certified to by the directors.

Section 347. Under code of 1873, section 1807 (now code 2749) authorizing levy of a tax of ten mills by the electors of an independent school district for the purchase of grounds and the erection of school houses and payment of debts contracted therefor—Held that where a levying of three per cent. tax was made, it was valid to the extent of one per cent. and void as to the excess.

IX—School funds, School lands

Section 395. The school fund belongs to the State, it has solemnly pledged itself to maintain the same inviolate.

THE GENERAL LAWS OF KANSAS, with amendments and new laws passed at the subsequent Legislative sessions, including the sessions of 1909.

7496. State board of education. 120. Provides for a State board of education consisting of the State superintendent of public instruction, the chancellor of the State University, the president of the State Agricultural College, the president of the State Normal School, and three others to be appointed by the governor by and with the advice and consent of the senate.

7497. State certificates. 121. Authorizes and empowers the State board of education to issue State certificates, "and such State certificates shall supersede the necessity of all other examinations of the persons holding them by county or local boards of examiners."

7498—122. Provides for meetings of the State board; certificates; course of study; expenses.

Cities of First Class.

7556. Tax levy. 180. That the board of education in cities of the first class shall, in the month of August of each year, levy a tax for the support of the schools of the city, including building and repairs of school buildings, for the fiscal year commencing on the 1st day of July last preceding the month of August in which such levy shall be made, not exceeding in any one year twenty mills on the dollar on all personal, mixed and real property within said city which is taxable according to the laws of the State of Kansas, which levy the president and clerk of the Board shall, on or before August 25th, certify to the county clerk, who is hereby authorized and required to place the same on the tax-roll of said county, to be collected by the treasurer of the county as are other taxes and paid over by him to the treasurer of the board of education, subject to the order of said board of education: Provided, that in all cities of the first class having a population of exceeding thirty-eight thousand inhabitants, the board of education of such city shall have power and is hereby authorized to levy a tax for the support of the schools of such city for such fiscal year of not to exceed seventeen mills on the dollar of all taxable property in such city, and shall have power, in addition thereto, to levy a tax upon all the taxable property in such city of not exceeding three mills on the dollar of the assessed valuation for building purposes and repairs of school buildings in such city; And provided further: That each and all of the foregoing levies hereby authorized shall be exclusive of and in

addition to the amount necessary to be levied under existing laws for the payment of interest upon bonds heretofore issued or which may be hereafter issued by boards of education of cities of the first class and for a sinking fund for the redemption of such bonds, as provided by the laws under which such bonds have been or may be issued.

7560. Tax levy for bonds. 184. The board of education in its annual estimate, as provided for in section two of this act, shall include an amount sufficient to pay the interest as it accrues on all outstanding bonds issued by the board, and also to create a sinking fund for the redemption of said bonds, and shall levy, and cause the same to be collected as provided for in said section in addition to the levy authorized by said section for school purposes; and such money shall remain a specific fund for said purposes only, and shall not be appropriated to any other purpose.

7573. Property. 197. The title of all property held for the use or benefit of the public schools shall be vested in the board of education, and held by them in trust for the city; and the board of education may sue in its own name for all money due or to become due to the board or the school fund, and for any trespass upon, injury to or concession of any of the school property of said city for the benefit of the school fund of such city.

7580. Sinking fund, how used. 204. Provides for the use of the moneys levied and collected for creating a sinking fund.

Cities of Second Class.

7608. Tax Levy. 232. That the board of education in cities of the second class, shall, on or before the 15th day of July of each year, levy a tax for the support of the schools of the city for the fiscal year next ensuing, not exceeding in any one year twenty mills on the dollar on all personal, mixed and real property within the district which is taxable according to the laws of the State of Kansas, which levy the clerk of the Board shall on or before August 1st certify to the county clerk, who is hereby authorized and required to place the same on the tax-roll of said county, to be collected by the treasurer of the board of education, of whom he shall take a receipt in duplicate, one of which he shall file in his office and the other he shall forthwith transmit to the clerk of the board of education.

State Annual School Fund.

7722. Fund. 346. Provides that it shall consist of the annual income derived from the interest and rents of the perpetual school fund as provided in the constitution of the State.

7725. 349. Provides that the State treasurer shall pay over to the treasurer of each county, on application, the amount of school money due to said county, on order of the State superintendent of public instruction.

7770. Tax levy. 394. That the board of trustees of any county high school in the State of Kansas shall at its first meeting, and annually thereafter before the first day of August of each succeeding year, make an estimate of the amount of funds needed for building purposes, for the payment of teachers' wages, for contingent purposes, and all other educational purposes connected with said high school, and having made such estimate shall make an annual levy sufficient to raise the amount desired for such purposes. But in no case shall the tax for such purposes exceed in one year the amount of the levy allowed by law on the taxable property of the county.

7839. Tax levy for. 463. The board of education in each city of the first class and the second class, and the annual school meeting of any school district, may, in addition to the other levies, levy a tax not to exceed one-half mill upon the dollar of assessed valuation in cities of the

first and second class, and not to exceed one mill on the dollar of the assessed valuation in all other cities and school districts, for the equipment and maintenance of industrial-training schools or industrial-training departments of the public schools. The sum raised by such levies shall be expended for the purposes named in this act and no other.

REVISED LAWS—LOUISIANA—1908

Free Public Schools

Act 1902

An act in relation to free public schools, and to regulate public education in the State of Louisiana; to provide a revenue for same and impose certain penalties; and to apply fines imposed by District Courts, and amounts collected on bonds, to the purpose of public education.

Section 1. (Provides for creation of State Board, which includes Superintendent of Public Education.)

Section 3. The State board of education shall prepare rules, by-laws, and regulations for the government of the public schools of the State * * * and shall give such directions as it may see proper as to the branches of study which shall be taught. The State board shall strictly enforce a uniformity of text books, which shall remain unchanged for four years after such adoption, etc.

State Superintendent of Public Education

Section 28. The State superintendent of public education shall have general supervision of all parish school boards in the parishes, and of all common, high and normal schools of the State, and shall see that the school system of the State is carried properly into effect, etc.

Revenues

Section 62. The State superintendent of public education shall, in the months of February, June and November in each year, apportion the funds appropriated by the General Assembly for the support of the public schools of the State among all the parishes of the State according to the number of children between the ages of six and eighteen years in each parish, etc.

Section 63. The police jurors of the several parishes, and the boards of trustees, councilmen and legal representatives of cities, towns and villages (except the parish of Orleans) may levy for the support of the public schools of their respective parishes a tax, six mills, for the public schools which shall not exceed the entire State tax; provided that with this tax the whole amount of parish taxes shall not exceed the limit of ten mills parish taxation fixed by the constitution; and provided also that no police jury of any parish shall levy for the support of its schools less than one and a quarter mills on the dollar of the assessed valuation of the property thereof. Such taxes shall be paid to the school treasury of the parish or town where collected, monthly by the tax collector; provided towns not exempted under their charters from the payment of parish taxes, and subjected to the same burden of taxation as the parishes are, shall not pay this tax, for the same is included in the taxes imposed by the parish in which the town is situated.

Section 71. (Provides that two members of the school board shall be appointed by the Governor with the approval and consent of the State board of education.)

Section 80. It shall be the duty of the Common Council of the City of New Orleans, in making up their budget of annual expenses, to include therein the amount necessary to meet the expenses of the schools, as

shown by the statement of the actual attendance, and the cost of instruction required by the previous section (Sec. 79) with such additional allowance for probable increased attendance and contingent expenses as may seem just and reasonable to the City Council, and to keep in good repair all school houses and school grounds belonging to the city.

REVISED STATUTES OF MAINE—1903

State Superintendent of Public Schools

Section 98. The Governor, with the advice and consent of the Council, shall appoint a State superintendent of public schools, who shall continue in office three years, or during the pleasure of the executive; vacancies shall be filled by a new appointment for a like term.

Section 100. In addition to the duties elsewhere specifically imposed on him his duties are as follows:

I. To exercise a general supervision of all the public schools and to advise and direct the town committees and superintendents in the discharge of their duties, by circular letters and personal conference, devoting all his time to the duties of his office.

VII. To prescribe the studies to be taught in the common schools, reserving to town committees the right to prescribe additional studies.

State School Funds

Section 122. The treasurer of the State shall keep a separate account of all moneys received from sales of lands appropriated for the support of schools or from notes taken therefor, and of any other moneys appropriated for the same purpose; and such sum shall constitute a permanent school fund, which may be put at interest as the legislature directs. A sum equal to six per cent. of the amount of such fund, and one-half the sum received by the State from a tax on the franchises of savings banks, and one-half the sum assessed upon the deposits of trusts and banking companies, shall be annually appropriated to the support of common schools, and distributed among the several towns according to the number of children therein between five and twenty-one years of age.

Section 123. The treasurer shall, immediately after the first day of July, apportion to the towns all the State school funds for the year, according to the list of children furnished by the State superintendent of public schools, etc., etc.

Section 124. A tax of one mill on a dollar shall annually be assessed upon all the property in the State according to the valuation thereof, and shall be known as the mill tax for the support of common schools.

Section 125. This tax shall be assessed and collected in the same manner as other State taxes, and be paid into the State treasury and designated as the school mill fund.

Section 126. This fund shall be distributed by the treasurer of the State on the first day of January annually, to the several cities, towns and plantations according to the number of scholars therein, as the same shall appear from the official return made to the State superintendent of public schools for the preceding year.

Section 127. All of the school mill fund not distributed or expended during the financial year shall at its close be added to the permanent school fund.

REVISED STATUTES OF MARYLAND

The revised statutes affecting the schools in Maryland cover 57 pages. The following quotations are made:

1. There shall be throughout the State of Maryland a general system of free public schools, according to the provisions of this article.

2. Educational matters affecting the State and the general care and supervision of public education shall be entrusted to a State board of education.

3. Educational matters affecting a county shall be under the control of a board of county school commissioners.

4. Educational matters affecting a school district shall be under the supervision of a board of district school trustees.

5. Provides that the governor, with the consent of the senate, if in session, shall appoint the six members of the State board of education.

6. Provides that he will appoint the county school commissioners, the number varying according to the different counties specified.

7. Provides that the district school trustees (three persons) shall be appointed by the county school commissioners.

8. Provides for the time of the meetings of the State board.

9. Provides for the headquarters.

10. Provides that members of the board shall receive no salaries but that actual expenses shall be paid.

11. Confers on the State board comprehensive visitorial power which is summary and exclusive. It gives the State board power to advise the county board, the latter to act accordingly.

12. Provides that the State board shall have the general care and supervision of the public school interests of the State.

13. Provides that they shall issue a uniform series of blanks.

14. When requested by the board of county school-commissioners they shall examine candidates for county examiner.

15. That they may grant teachers of long experience and established reputations professional certificates.

16. That they shall be ex-officio trustees of the State normal schools.

17. That all schools and colleges receiving State donations shall make a report to them.

18. That the governor shall appoint the State superintendent of public education, who, ex-officio, becomes a member of the State board.

19. Provides for his salary and expenses.

20. Provides for the duties of the State superintendent; such as diffusing information as to the best methods of instruction; receiving and presenting reports to the State board of county boards; examining county boards' statements of expenditures; arranging for teachers' institutes, and "in every way conserve the interests and promote the efficiency of the public schools of the State."

21. Provides for an assistant superintendent.

22-30. Defines the duties of the county school commissioners, who, in general terms, exercise in the counties supervisory powers over education. Section 26 in this group reads as follows:

The State school tax and free school fund are primarily intended, under this article, to pay the salaries of the teachers of the several counties and to provide school books and stationery for the children of the State; if, however, in apportioning the said school tax among the different counties and the city of Baltimore, the share of any county should prove inadequate for the purposes aforesaid, then the county commissioners of such county are hereby authorized, empowered, directed and required to levy and collect such a tax upon the assessable property of such county as the board of county school commissioners shall designate to make good the deficiency; provided, that said tax shall not exceed fifteen cents on the hundred dollars, unless the county commissioners shall approve and sanction an additional tax; taxes so levied and collected shall be paid quarterly, on the

day fixed for payment of the State school tax to the several counties (but the proceeds from the special taxes may be paid oftener, upon the order of the board of county school commissioners to the treasurer of said board of county school commissioners) in order that the schools of said counties may be kept open for time herein set forth, and said tax shall be levied and collected as other taxes; any sums of money which may have been specially collected or levied on any election or school house district for educational purposes connected with these districts, shall be collected and applied to the purposes so intended originally, and shall be used for no other purpose; and if said funds have been used otherwise they shall be returned and applied as aforesaid.

31-36. These cover the duties of district school trustees in considerable detail.

37-41. Cover school houses and sites. In general, they give the board of county commissioners power of condemnation for land not exceeding one acre, when arrangement cannot be made at private purchase, but condemnation must be confirmed by a judge of the circuit court of the county.

42-52. Cover the ordinary details of schools; sessions, subjects, of instruction, etc.

53-62. These refer to teachers. Among other things, these sections provide (Section 54) "Any graduate of the department of pedagogy of any reputable college or university maintaining a department of pedagogy that has been approved by the State board of education of Maryland, shall be entitled to teach in the public elementary or high schools of the State of Maryland without examination." Note—This seems to emphasize the State control.

63-66. These refer to pupils.

67-71. Text-books and other incidentals not particularly germane to the subject.

72-81. Examiners, and other details not germane to the subject.

82-91. Normal schools, which are all State institutions. Provide for a grant of \$1,000 annually for repairs for the "Maryland State Normal School of Baltimore."

92-120. Refer to teachers' institutes, teachers' associations and public libraries.

121-124. Provide for education in the city of Baltimore. Note—Nowhere in these articles is the method for the appointment of school commissioners in Baltimore designated. This section (121) gives to the city the whole of the State's power over public schools in the city.

125-130. Refer to high schools.

131-134. Schools for colored children.

135-140. Refer to sources of income.

(135. A State tax of fifteen cents on every hundred dollars property as a general state levy.)

136. The treasurer, on the warrant of the Comptroller, shall pay to each county of the city of Baltimore the proportion of the free school fund to which each city or county is entitled.

137. The comptroller to turn this money over to the several counties and the city of Baltimore.

The other sections provide for the method of distribution.

142-147. Industrial schools in the counties.

148-152. Farmers' institutes.

153-172. Provisions for attendance. The remaining sections relate to provisions for special institutions.

REVISED LAWS OF MASSACHUSETTS—1902

Title X

Chapter 39

Section 1. The board of education shall consist of the governor and lieutenant-governor and eight other persons, one of whom shall annually in May be appointed by the governor, with the advice and consent of the Council, for a term of eight years.

Section 2. The board may appoint a secretary, who, under its direction, shall make the abstract of school returns required by the provisions of section seven, shall collect and distribute information respecting the condition and efficiency of the public schools and other means of popular education and the best system of studies and the best method of instruction.

Section 7. The secretary shall suggest improvements in the present system of public schools to the board and to the general court, etc.

Section 8. He shall, under the direction of the board, give sufficient notice of and attend such meetings of teachers of public schools, of members of the school committees of the several towns and of friends of education generally in any county as may assemble at the time and place designated by the board; and shall at such meetings devote himself to collecting information relative to the condition of the public schools of such county; the fulfilment of their duties by the school committees of all the cities and towns, and the condition of the towns in regard to teachers, pupils, books, apparatus and methods of education, with a view to enabling him to furnish all information desired for the annual report.

Chapter 41

Section 1. The present school fund of the commonwealth, such additions as may be made thereto and any money received by the commonwealth from the government of the United States, the disposition of which is not otherwise provided for, shall constitute a permanent fund, to be called the "Massachusetts School Fund." The principal thereof shall not be diminished and the income shall be appropriated as hereinafter provided.

Section 2. The sum of one hundred and fifty thousand dollars shall annually be paid from the treasury of the commonwealth into said fund until the principal thereof amounts to five millions of dollars.

Section 4. One-half of the annual income of the said school fund shall, without a specific appropriation, be apportioned and distributed for the support of public schools in the following manner (amount of distribution follows). The remainder of said half shall be distributed to towns. (Here follows distribution.)

Section 7. The income of said fund shall be applied by the school committees of the towns receiving it to the support of the public schools therein; but said committees may apply not more than twenty-five per cent. to the purchase of books of reference, maps and apparatus for the use of said schools.

GENERAL STATUTES—MINNESOTA—1913

Section 2670. *Public School tuition free.*—All public schools, supported in whole or in part by State school funds, shall be styled "public schools" and admission and tuition therein shall be free to all persons between the ages of five and twenty-one years, etc.

Section 2895. *State apportionment of school fund.*—The State superintendent shall apportion the available current school fund among the counties on the first Monday of March and October in each year, in proportion

to the number of scholars of school age entitled to apportionment therein, etc.

Section 2915. *State school tax*.—There shall be levied annually upon the taxable property of the State a tax of one and twenty-three one hundredth mills on the dollar, to be known as the State school tax, of which one mill on the dollar shall be added to the general school fund, etc.

Section 2916. *County school tax—district tax*.—The county board shall extend upon the tax lists of the county, in the same manner as district school taxes are extended, a tax of one mill on the dollar on the taxable property in each district, to be known as the county school tax. * * * The tax levied by school districts shall be known as the district school tax.

Section 2917. *District school tax*.—In common districts such district school tax shall not exceed fifteen mills on the dollar for the support of schools, or ten mills for the purchase of school sites and the erection and equipment of school houses; but in such districts in which said ten mill tax will not produce six hundred dollars, a greater tax may be levied for school sites and buildings, not to exceed twenty-five mills on the dollar. * * * In independent districts no tax in excess of eighteen mills on the dollar shall be levied for the purpose of school sites and the erection of school houses. * * * Provided, that in any common school district of this State, in which there is now or shall hereafter be maintained a high school or graded school, the district school tax for the support of schools may be not to exceed twenty-five mills on the dollar.

Section 2918. *District School Tax—in districts having 50,000 inhabitants*.—In all districts having 50,000 inhabitants or more there may be levied, independently of and in addition to, other sums for school purposes authorized by law, the following two additional amounts: *first*, four mills on the dollar for the purchase of school sites and the erection, repair, furnishing and fitting of school buildings, payment of teachers' salaries, and the general maintenance of schools, which amount to the extent of three and one-half mills only, may be appropriated to general maintenance and the remainder to one or more of such uses; *second*, an amount not exceeding one mill for increase of teachers' salaries provided that the total levy in any such district for the maintenance of schools shall not exceed nine mills on the dollar.

Section 2919. *Same—in districts having not less than 20,000 nor more than 50,000 inhabitants*.—School districts now or hereafter having not less than 20,000 nor more than 50,000 inhabitants are hereby empowered to annually levy, for the general fund of such school district, a school tax not exceeding eleven mills on the dollar of the valuation of all taxable property in such school district.

Section 2921. *Taxes in certain districts having not less than 10,000 nor more than 20,000 inhabitants*.—Special school districts having not less than 10,000 nor more than 20,000 inhabitants are hereby empowered to annually levy for general school purposes a general school tax not exceeding nine mills on the dollar of the valuation of all taxable property in said districts, etc.

Section 2923. *Taxes in districts under special laws and containing less than 3,000 inhabitants*.—The school board of any district within this State organized and existing under any special law and containing a population of less than 3,000 people is hereby authorized to levy a tax not to exceed twenty mills on the dollar for school purposes, exclusive of tax levy for interest on bonded indebtedness, sinking fund, or building fund, notwithstanding any limitation as to the amount of tax which may be levied by the special act under which said school district was organized.

Section 2924. *Tax in certain districts whose boundaries are coterminous with those of cities of the fourth class*.—The board of education of any

school district within this State organized and existing under any special law passed prior to January, 1867, and whose boundaries are coterminous with the boundaries of any city of the fourth class is hereby authorized to levy a tax of not to exceed twenty mills on the dollar for school purposes, exclusive of tax levied for interest on bonded indebtedness, sinking fund, or building fund, etc.

Section 2926. (Provides for repayment of excessive taxes.)

State Aid

Section 2927. *Standing appropriations for schools.*—There are hereby appropriated annually, out of any moneys in the State treasury not otherwise appropriated, the following sums:

1. For aid to high schools, two hundred and seventeen thousand dollars.
2. For aid to graded schools, seventy-nine thousand dollars.
3. For aid to semi-graded schools, sixty-seven thousand dollars.
4. For aid to common schools, one hundred thousand dollars.

Section 2929. *Annual appropriation in aid of common schools.*—There is hereby annually appropriated from the revenue fund of this State fifty thousand dollars in aid of the common schools of the State, etc.

Section 2930. *How distributed.*—The amount so appropriated shall be annually divided among and distributed to the several counties of this State for the use and benefit of and in aid of the common schools thereof, etc.

Section 2931. *Not to be used for sites or buildings.*—No part of the money hereby appropriated shall be available for or be used for the purpose of any school site or the erection of any school building.

NEBRASKA—REVISED STATUTES—1913

Article XXIV

7007. Section 308. *School districts in metropolitan cities—organization.*—Each incorporated metropolitan city in the State of Nebraska, or those hereinafter incorporated as such, shall constitute one school district and be known by the name of the school district of (name of city), in the county of (name of county), in the State of Nebraska, and as such in that name shall be a body corporate and possess all the usual powers of a corporation for public purposes, and in that name and style may sue, and be sued, purchase, hold and sell such personal and real estate, and control such obligations as are authorized by law; and the title to all school buildings or other property, real or personal, owned by any school district within the corporate limits of metropolitan cities shall, upon the organization of a district under the provisions of this article, vest immediately in the new district, and the board of education, by this article provided, shall have exclusive control of the same for all purposes in this article contemplated.

7009. Section 310. *Property subject to school tax.*—All property within the corporate limits of metropolitan cities, except such property as now is or may hereafter be exempt by law, shall be subject to taxation for all the school purposes contemplated in this article.

7027. Section 328. *Estimate of expenses—tax levy.*—The board of education shall annually, during the month of January, estimate the amount of resources likely to be received for school purposes, including the amounts available from fines, licenses and other sources; they shall report during the month of January to the city council the number of mills tax on the dollar deemed necessary to be levied upon all taxable property of the district, during the fiscal year next ensuing, for the sup-

port of the schools, for the purchase of school sites, for the erection and furnishing of school buildings, for the payment of interest upon all bonds issued for school purposes, and for the creation of a sinking fund for the payment of such indebtedness; and the city council is hereby authorized, directed and required to levy and collect the number of mills tax so reported and demanded by the board of education in the same manner as other taxes are levied and collected; PROVIDED, HOWEVER, in case the purchase of school sites and the erection of buildings shall require an expenditure exceeding \$25,000 for any one calendar year the question shall be submitted to a vote of the electors of said district.

7028. Section 329. *Tax limit.*—The aggregate school tax shall in no one year exceed two per cent. upon all the taxable property of the district.

7029. Section 330. *Taxes to be paid in money.*—All taxes collected for the benefit of public schools shall be paid in money and shall be subject to the order of the board of education.

7034. Section 335. *Funds of district—care and custody of.*—All moneys arising from any source whatever, which are payable to the school fund of any city of the first class which may become a metropolitan city, or any moneys which are required to be set apart by the treasurer of any such city for the support and maintenance of any school therein, shall be payable to the treasurer of the board of education, and shall be used only for the purposes specified in this article.

NEW HAMPSHIRE—Public Statutes—1901

Superintendent of Public Instruction

Section 1. The Governor, with advice of council, shall appoint a superintendent of public instruction, who shall hold office for the term of two years, and shall have general supervision and control of the educational interests of the State.

Section 2. The superintendent of public instruction shall prescribe the form of register to be kept in the schools, and the form of blanks and inquiries for the returns to be made by the school boards, and shall seasonably send the same to the clerks of the several towns and cities for the use of the school boards therein; he shall receive, preserve or distribute all State documents in regard to public schools or education, and shall receive and arrange in his office reports and returns of school boards; he shall investigate the condition and efficiency of the system of popular education in the State (especially in relation to the amount and character of the instruction given to the study of physiology and hygiene, having special reference to the effects of alcoholic stimulants and narcotics upon the human system, and shall recommend to school boards what he considers the best text-books upon those subjects and suggest to them the best mode of teaching them);* etc., etc.

State Appropriation.

1899. Chapter 77. Section 6. The sum of \$25,000 shall be appropriated annually from the State treasury for the purposes of this act. Twenty-five per cent. of the entire appropriation shall be set apart each year to carry into effect Section 3 of this act. Any portion of the sum so set apart and not expended as aforesaid shall remain in the State treasury to be used in any subsequent year, if needed, to carry out the purposes of this section. The remainder shall be paid by the State treasurer in December of each year to all the towns of the State in which the equalized

*Inserted 1895, 35: 1.

valuation is less than \$3,000 for each child of the average attendance in the public schools of such towns during the school year next preceding, and such other towns as may be added as hereinafter provided, on the sworn statement of the superintendent of public instruction certifying as to what amount each town is entitled, in direct proportion to said average attendance and in inverse proportion to the equalized valuation per child, and shall be used exclusively for the support of the public schools. The Governor and council may, upon recommendation of the superintendent of public instruction, add to the class of towns specified above in this paragraph such other towns as may seem from their peculiar conditions to need relief from too great a burden of school taxation.

NEW JERSEY STATUTES—1910

Article I

Section 1. Provides for creation of State board of education

Article II

Section 6. *Appointment; Salary; Office; Expenses.*—The State superintendent of public instruction shall be appointed by the governor, by and with the advice and consent of the senate, for the term of five years and until his successor shall be appointed and confirmed.

Section 9. *Duties of State Superintendent.*—The State superintendent of public instruction shall be the secretary of the State board of education and a member ex-officio of all boards of examiners. He shall enforce all rules and regulations prescribed by the State board of education. He shall have supervision of all the schools of the State receiving any part of the State appropriation. He shall from time to time instruct county and city superintendents as to their duties and as to the best manner of conducting schools, constructing school houses and furnishing the same.

Article VI

Section 75. *Board of School Estimate; Determination of Moneys Necessary for Schools; Appropriations Pursuant Thereto.*—Between the 15th day of May and the 1st day of June in each year said board of school estimate shall fix and determine the amount of money necessary to be appropriated for the use of the public schools in such district for the ensuing school year, exclusive of the amount which shall have been apportioned to it by the county superintendent of schools. * * * Provided, that any amount in excess of $\frac{3}{4}$ of one per centum of the taxable valuation of real and personal property shall be appropriated only with the concurrence and consent of said common council, board of finance or other body, expressed by its resolution duly passed; and provided further, that if the charter of the city shall limit the amount of tax or the rate of taxation in such city, so that the purposes of this section cannot be carried out, or shall otherwise by its terms prevent the carrying out of said purposes, said charter limitations shall be hereafter held not to apply to the raising of money under the provisions of this section.

Section 76. *Raising Money to Purchase Land or Erect, Enlarge, Repair or Furnish School Houses; Estimate and Determination of Amount Necessary; Certificates; Making of Appropriations; Issue of School Bonds.*—Whenever a city board of education shall decide that it is necessary to raise money for the purchase of lands for school purposes, or for erecting, enlarging, repairing or furnishing a school house or school houses, it shall prepare and deliver to each member of the board of school estimate of such school district a statement of the amount of money estimated to be

necessary for such purpose or purposes, and shall make two certificates of such amount, one of which certificates shall be delivered to said board of education, and the other to the common council, board of finance or other body in the city having the power to make appropriations of money raised by tax in such city; said common council, board of finance or other body may appropriate such sum or sums for such purpose or purposes in the same manner as other appropriations are made by it, and said sum or sums shall be raised, assessed, levied and collected at the same time and in the same manner as moneys appropriated for other purposes in such city are raised, assessed, levied and collected; * * * provided, that the total amount of bonds for the purposes named in this section, including bonds heretofore issued for such purposes and not redeemed, shall not exceed at any one time a sum equal to three per centum of the taxable valuation of the real and personal property in such city; provided further, that if the charter of the city shall limit the amount of the indebtedness in such city, or shall by its terms prevent the carrying out of the provisions of this section, said charter provisions shall be hereafter held not to apply to the issuing of bonds under the provisions of this section.

Article XVII

Section 177. For the purpose of maintaining free public schools there shall be appropriated each year from any moneys in the State treasury not otherwise apportioned such sum, not less than \$100,000, as may be determined by the legislature in the annual appropriation act; which sum shall be appropriated among and paid to the several counties in the proportion that the ratables each of said counties shall bear to the total ratables of the State. * * * In addition to the amount so determined and appropriated, a State school tax shall be annually assessed, levied and collected upon the taxable real and personal property in the State. * * * Said tax shall be such an amount as will make * * * a sum equal to $2\frac{3}{4}$ mills of each dollar of valuation of the taxable real and personal property, etc., etc.

OREGON LAWS (Lords, Vol. II)

All the laws of a general nature in force in the State of Oregon, including the sessions of 1909 and the laws and the constitutional amendments adopted at the general election of 1910.

Section 3948. Governor, Secretary of State and the Superintendent of Public Instruction shall constitute the State Board of Education.

Section 3950. *Powers*—

1. To authorize textbooks to be used in public schools.
2. To prepare a State course of studies for grammar grade schools.
3. To prescribe rules and regulations for the general government of public schools, and for the maintenance of discipline therein, etc., etc.

PENNSYLVANIA CODE—PROVISIONS AFFECTING EDUCATION— 1913

Section 120. Provides, in effect, that public school property heretofore held by various school divisions "shall be owned by and vested in the proper school district established by this act, within whose boundaries such property is situated, except as herein provided," and each school district hereby established shall succeed to and shall assume and pay all the rights, liabilities and indebtedness of the school district or districts, etc.

(NOTE:—Apparently this directly transfers all school properties to certain territorial districts, divided according to State lines.)

Section 123. Each school district in this Commonwealth shall have the right to sue and be sued in its corporate name.

Section 402. In order to establish, etc., schools, or pay school indebtedness, etc., the "Board of school directors in each school district in this Commonwealth shall be, and hereby is, vested with all the necessary authority and power annually to levy and collect, in the manner herein provided, the necessary taxes required, in addition to the annual State appropriation, and shall have and be vested with all necessary power and authority to comply with and carry out any or all of the provisions of this act.

(NOTE:—Philadelphia is in a district of the first class, so this covers that city. It is also to be understood that the board enjoys this power as a State agent.)

Section 403. The affirmative vote of a majority of the board of school directors, etc., is required to take action on the following subjects: (Here follows a list of usual duties), "fixing salaries or compensation of officers, teachers or other appointees of the board of school directors."

Section 501. All taxes required by any school district in this Commonwealth, in addition to the State appropriation, shall be levied by the board of school directors therein.

Section 506. The board of school directors may, in order to purchase the required sites, grounds, additional lands, etc., or retire or pay existing indebtedness incurred by a municipality, *create and incur an indebtedness against any such school district and issue bonds to secure the same * * * to any amount*; that the total indebtedness shall never exceed seven per cent. upon the assessed value of the taxable property for school purposes.

(But note that no municipality or district may incur any new debt or increase its indebtedness to an amount exceeding two per cent. This really means that the seven per cent. clause refers to the existing indebtedness of the municipality when this Constitution took effect. Practically, therefore, the limit for bonds issued is two per cent.)

Section 508. Provides that school districts may create temporary loans of 2/10 of one per cent. of the total value of taxable property in the district.

Section 524. In effect provides that board of public education in school districts of the first class shall levy an annual school tax of not less than five nor more than six mills on the dollar.

Section 532. Provides, in effect, that the board of education must make a budget, but this budget is simply for the information of the taxpayer, as it goes before no other official body.

Section 602. Gives the board of school directors authority "to acquire in the name of the district, by purchase, lease, gift, devise, agreement, condemnation or otherwise, any and all such real estate, vacant or occupied, as the board of directors may deem necessary, to furnish suitable sites for school buildings.

PHILADELPHIA CHARTER—1905

Section The Department of Education shall continue as now established by law.

The Board of Education is not a city department. (The Board of Education v. Shoyer, 13 D. R., 110 (1904); affirmed by Sup. Court, apl. 1904.)

PHILADELPHIA DIGEST—Page 506 (1905)

Section 79. He, the said superintendent, shall decide without appeal and without costs to parties, all disputes which may arise or exist between

directors or comptrollers of any district; between directors or comptrollers of adjoining districts, or between comptrollers and treasurers and directors or comptrollers concerning the duties of their respective offices.

Section 80. He shall, whenever required, give advice, explanation, instruction or information to district officers and to citizens relative to the common school law, the duties of common school officers, the rights and duties of parents, guardians, pupils and all others, the management of the schools and all other questions and matters calculated to promote the cause of education.

Section 84. He shall provide a seal with suitable device for the use of the department of common schools, by which copies of papers deposited and filed therein, and all official acts and decisions may be authenticated under said seal.

GENERAL LAWS OF RHODE ISLAND—1909

Chapter 63

Section 1. The general supervision and control of the public schools of the State, with such high schools, normal schools and normal institutions as are or may be established and maintained wholly or in part by the State, shall be vested in a board of education, which shall consist of the governor and the lieutenant-governor, as members by virtue of their office, and of one other member from each of the counties of the State, with the exception of Providence county, which shall have two other members. The board of education shall elect the commissioner of schools.

Chapter 64

Section 1. There shall be annually elected a commissioner of public schools in the manner prescribed in the previous chapter, who shall devote his time exclusively to the duties of his office. In case of sickness, temporary absence or other disability, the governor may appoint a person to act as commissioner during such absence, sickness or disability.

Section 3. The commissioner of public schools shall visit as often as practicable every town in the State, for the purpose of inspecting the schools, and diffusing as widely as possible, by public addresses, communications with school officers, teachers and parents, a knowledge of the defects and of the desirable improvements in the administration of the system and the government and instruction of the schools.

Section 4. He shall, under the direction of the board of education, recommend and bring about, as far as practicable, a uniformity of text-books in the schools of all the towns; and shall assist in the establishment of and selection of books for school libraries.

Chapter 65

Section 1. The sum of \$120,000 shall be annually paid out of the income of the permanent school fund, and from other money in the treasury, for the support of public schools in the several towns, on the order of the commissioner of public schools.

Section 2. That the sum of \$120,000 shall be apportioned by the commissioner of public schools among the several towns as follows: The sum of one hundred dollars shall be apportioned for each school, not to exceed fifteen in number in any one town; the remainder shall be apportioned in proportion to the number of children from five to fifteen years of age inclusive, in the several towns, according to the school census then last preceding.

Section 4. No town shall receive any part of such State appropriation unless it shall raise by tax for the support of public schools a sum equal to

the amount it may receive from the treasury for the support of public schools.

Section 10. There shall be an annual appropriation for the support and maintenance of evening schools in the several towns of this State, under the general supervision of the State board of education, who shall apportion said appropriation among the several towns.

Chapter 74

Section 2. Any town maintaining a high school having a course of study approved by the State board of education shall be entitled to receive annually from the State \$20 for each pupil in average attendance, for the first twenty-five pupils, and \$10 for each pupil in average attendance for the second twenty-five pupils.

TEXAS CIVIL STATUTES—1913

Chapter 10—State Board of Education

Article 2729. *Shall Make Apportionment.* The State board of education shall on or before the first day of August in each year, based on the estimate theretofore furnished said board by the comptroller, make an apportionment for the succeeding scholastic year of the available State school fund among the several counties of the State, and the several cities and towns and school districts constituting separate school organizations, according to the scholastic population of each; and, thereupon, the State superintendent of public instruction, as secretary of such board, shall certify to the treasurer of each county, city or town, and of each school district constituting a separate school organization, the total amount of available school fund so apportioned to each such county, city or town or school district, which certificate shall be signed by the governor, as president of such board, countersigned by the comptroller, and attested by the State superintendent of public instruction, as secretary of such board.

Chapter 16—Independent Districts

Article 2850. *Application to County Judge for Elections.* At any time hereafter, it shall be lawful for any town or village which may desire to incorporate for school purposes only, to make application to the county judge for the organization of an independent school district, as provided for by the general statutes governing such case, and for the election of a board of trustees, as provided in this title, and on receipt of such application it shall be the duty of the county judge to proceed as required in articles....and....of this chapter.

Article 2851. *Incorporation.* A town or village authorized to incorporate under this chapter, or having two hundred inhabitants or over, may form an incorporation for free school purposes only, which may include within its bounds a town or village incorporated for municipal purposes, the same not having assumed control of the public schools within its limits; provided, that the territory so incorporated for free school purposes shall not exceed an area of twenty-five square miles. * * * When a town or village is included in a corporation for free school purposes, and such town or village shall afterwards be incorporated for municipal purposes, it shall not thereby acquire a right to take the control of the schools within its limits out of the hands of the school corporation.

Article 2856. *General Laws Apply to All Districts.* All school districts, heretofore provided for by special act of the legislature, are placed under the general laws relating to incorporated school districts, and all provisions of any and all such special acts in conflict with the general laws are hereby specifically repealed, except in so far as those acts relate to the

boundaries established by the acts incorporating such districts. All incorporated districts, having each fewer than one hundred and fifty scholastics according to the latest census, shall be governed in the general administration of their schools by the laws which apply to common school districts; and all funds of such districts shall be kept in the county depositories and paid out on order of the trustees approved by the county superintendent.

Chapter 17—Exclusive Control by Cities and Towns—Independent Districts

Article 2867. *City or Town May Assume Control of Schools.* Any city or town in this State may acquire the exclusive control of the public free schools within its limits.

Article 2870. *Shall Receive Pro Rata of School Funds.* Such city or town, after notice to the State board of education that it has determined to assume control of the public free schools within its limits, shall receive such pro rata of the available school fund as its scholastic population may entitle it to.

Article 2871. *General Laws Shall Govern.* Schools thus organized and provided for by incorporated cities and towns shall be subject to the general laws, so far as the same are applicable; but each city or town having control of schools within its limits shall constitute a separate school district, and may provide for the organization of schools and the appropriation of its school funds in such manner as may be best suited to its population and condition.

Article 2875. *Local Maintenance Tax.* After a city or town has assumed control of the public free schools within its limits, the council or board of aldermen shall also submit the question to the property taxpayers as to whether or not the additional amount as provided for hereinafter shall be raised by taxation.

Article 2879. In a city or town that has assumed the exclusive control of the public free schools within its limits and has decided under the laws providing therefor that a special tax shall be levied for the support of such public free schools, the mayor and the council or board of aldermen of such city or town shall annually assess and levy such tax by ordinance duly passed and approved in the same manner as is required in the assessment and levy of taxes for general purposes in such city or town. In a city or town which has voted upon and directed the levy of a special tax not exceeding one-half of one per cent. the mayor or council or board of aldermen of such city or town shall annually levy such rate of tax for public school purposes, not exceeding one-half of one per cent., as shall be sufficient for the support of the public free schools for the term as required by law; but in a city or town that has voted upon and decided, at an election held for that purpose, that a special rate of tax shall be assessed and levied in such city or town for the support of its free public schools, the mayor and council or board of aldermen of such city or town shall have no discretion in fixing the rate at which such tax shall be levied, but shall assess and levy the same at the rate fixed in the proposition as submitted and adopted by the qualified voters of such city or town at the election held for that purpose.

WASHINGTON CODE (Pierce's) 1912

An act establishing, providing for the maintenance of, and relating to a general and uniform public school system for the State of Washington
* * * repealing all acts and parts of acts in conict with the provisions of this act. Approved, March 11, 1909.

Title 413

Section 1. A general and uniform system of public schools shall be

maintained throughout the State of Washington and shall embrace common schools (including high and elementary schools, schools for special help and discipline schools, or departments of special instruction), technical schools, etc., etc., and such other educational institutions as may be established by law and maintained at public expense.

Section 2. The administration of the public school system shall be entrusted to a superintendent of public instruction and State board of education, to regents or trustees for educational institutions, the county superintendent of common schools, two boards of directors and the district clerks.

Section 13. *State Board of Education.*—The State board of education shall consist of the superintendent of public instruction, the president of the University of Washington, the president of the State College of Washington, the principal of one of the State Normal Schools, etc., etc.

Section 21. (Subdivision seven of powers and duties.) To prepare and outline course or courses of study for the primary, grammar and high school departments of the common schools, and to prescribe such rules for the general government of the common schools as shall secure regularity of attendance, prevent truancy, secure efficiency and promote the true interests of the common schools. (Subdivision ten.) To prepare uniform questions for use in the examination of the pupils of the schools of the State completing the grammar school courses of study, and to prescribe uniform rules and regulations for the conducting of such examinations.

Section 205. Common schools shall include schools that are maintained at public expense in each school district and under the control of boards of directors, etc.

Section 431. *Tax Levy—Limit of Expenditures.*—The board of directors shall annually * * * report to the board of county commissioners an estimate of the amount of funds in addition to estimated receipts from the State and county * * * required for the support of the schools, for the purchase of school sites, the erection and furnishing of school buildings, and payment of interest upon all bonds issued for school purposes, and the creation of a sinking fund * * * and the county commissioners are hereby authorized and required to levy and collect such an additional amount of funds, the same as other taxes * * *. Directors may annually expend in cities having a population greater than one hundred thousand and less than two hundred thousand a sum not exceeding two hundred thousand dollars, and for every additional fifty thousand of population a further sum of fifty thousand dollars, etc.

Section 433. *Limit of Tax Levy.*—The tax levy for school purposes in districts of the first class shall in no one year exceed one per cent. of the assessed value of all taxable property in the district; provided that when any expenditure shall be necessary in any one current year * * * if a majority of the electors voting thereon * * * shall be in favor of such additional tax the entire amount so authorized shall be levied and collected. No levy, however, shall exceed two per cent. of all the taxable property of said district.

Section 605. *Permanent Fund.*—The principal of the common school fund shall remain permanent and irreducible. The said fund shall be derived from the following sources (here follows description of sources of funds).

Section 609. *Current Fund; Tax Levy.*—Interest accruing on said permanent school fund, etc., shall be applied to the current use of the common schools. In addition, it shall be the duty of the State board of equalization * * * to levy a tax sufficient to produce a sum which * * * will equal \$10 for each child of school age residing in the State—tax not to exceed five mills on the dollar.

WISCONSIN STATUTES—1913

The State Superintendent

Section 116. *Supervisors' Duties Generally.* He shall have general supervision over the common schools of the State. * * * To prepare a statement of the condition of the common schools, the State graded schools, the city graded schools, the free high schools and independent high schools, the manual training schools, the schools established for the purpose of giving instruction in agriculture and domestic science, the county training schools for teachers, the day schools for the deaf, the State normal schools, the State university and such other schools as may be hereafter established by law.

School Fund Tax

Section 1072a. There is appropriated annually to the common school fund income an amount equal to 7.10 of one mill for each dollar of the assessed valuation of the taxable property in the State, as determined by the tax commission, exclusive of the property of corporations which pay license fees, or which are assessed for taxation by the tax commission, to be derived annually as follows: Two hundred thousand dollars from the license fees or taxes paid by said corporations and the balance from a tax which shall be levied on all other taxable property * * * and the amount thereof shall be disbursed in the manner and under the conditions and restrictions provided for the disbursement of the common school income.

Apportionment of Income

Section 554. The school fund shall be apportioned by the State Superintendent between the 10th and 15th days of December in each year. The amount to be so apportioned shall include all moneys belonging to said fund * * *. Such apportionment shall be made among the several counties, towns, villages and cities according to the number of children in each over the age of four and under the age of twenty years, as shown by the reports made to the State Superintendent.

PUBLIC STATUTES OF VERMONT—1906

Title II

Section 914. *Election, duties, etc., of Superintendent of Education.* The generally assembly shall elect at each biennial session a superintendent of education, who shall have general supervision of the public schools and devote his whole time to the duties of his office, etc.

Section 920. *Reports.* Said superintendent shall present to the general assembly on the first day of each biennial session a report of his official acts for the preceding two years, and a statement of the condition of schools, and the expenditure of school money, with such plans for the improvement of schools as he deems proper.

Section 923. *Courses of Study.* Said superintendent may when necessary prepare and issue a course of study for use in elementary schools as a requisite for admission to high schools and academies.

Section 1013. *Elementary Schools.* A school performing the work prescribed in a nine years' course of study or part thereof, prepared by the superintendent of education for ungraded schools, shall be considered an elementary school.

Section 1072. *Permanent Public School Fund.* The sum of two hundred and forty thousand dollars returned by the national government to

the State in settlement of the Civil War claims, the Huntington fund, the United States deposit money, and such other additions as may be made to the fund hereby established shall be held intact and in reserve as a permanent public school fund.

Section 1084. *Distribution of Permanent Public School Fund.* (Provisions for distribution of public school fund, and States:) "The income thus distributed shall be used solely for the support of public schools, and shall in unorganized towns and gores be divided equally between the several school districts which have maintained a local school the preceding year, and in towns having a district incorporated by a special act of the general assembly as is provided for the division in such towns of money received from the State school tax."

Section 1091. *State School Tax.* A tax of eight cents on the dollar shall be annually assessed upon the grand list for the support of public schools.

Appendix 3

COPIES OF LEGAL DECISIONS

- Gunnison v. Board of education—176 N. Y., 11
Hutchinson, et al., v. Skinner—21 Misc., 729
Ham v. Mayor of City of New York—70 N. Y., 459
People v. Board of Education of Saratoga Springs—54 Barb., 480
State ex rel Clark v. Haworth—122 Ind., 462
Fuller v. Heath—89 Ill., 312
Speight, et al., v. The People—87 Ill., 599
State ex rel Ogan—159 Ind., 121
Williams v. Board of Education, City of Parsons—106 Pac. Rep. 36
Howard v. Independent School District of Nez Perces—106 Pac., 692
United Elec. Light and Power Co.—affd. 136 App. Div., 931

LEGAL DECISIONS

Gunnison v. Board of Education, 176 N. Y., 11 (1903)

The only relation the city has to public education is as the custodian and depository of school funds, and its only duty with respect to that fund is to keep it safely and disburse the same according to the directions of its board of education. The city as trustee has the title to the money, but it is under the care, control and administration of the board of education, and all suits in relation to it must be brought in the name of the board. * * *

It is apparent from the general drift of the argument that the learned counsel for the defendant is of the opinion that the employment of teachers in the public schools and the general conduct and management of the schools is a city function in the same sense as it is in the care of the streets, or the employment of police and the payment of their salaries and compensation; but that view of the relation of the city to public education, if entertained, is an obvious mistake. The city cannot rent, build or buy a school house, it cannot employ or discharge a teacher, and has no power to contract with teachers with respect to their compensation. There is no contract or official relation, express or implied, between the teachers and the city. All this results from the settled policy of the State from an early date to divorce the business of public education from all other municipal interests, and to take charge of it as a peculiar and separate function, through agents of its own selection and immediately subject and responsible to its control. * * *

The following statement, taken from the printed argument in support of the appeal clearly discloses the counsel's position with respect to the right to bring suits of this character against the board of education under the present charter:

"What we urge in this connection is that the legislature in making the board of education a member of one of the administrative departments of the city of New York have devolved upon the city itself, acting through one of its departments, the State functions which were formerly directly imposed upon the board of education as a separate public corporation. In this respect the board of education is similar to the department of health, the police department, the department of public charities and the fire department. No more reason exists for holding that a common law action should be brought against the board of education for holding that such actions should be brought against the members of the other departments above named."

Surely if this is a correct statement of the law a great change has been made in the new charter, since it is in that charter that we still find all the statutory provisions quoted above, and notably that provision wherein it is declared that the board of education shall, in its corporate capacity, represent the entire school system. If the State departed from the settled policy that has prevailed since its organization of keeping the work of public education and the control and management of its schools separate and distinct from all other municipal interests and business by the selection of its own agents and clothing them with corporate powers to represent the schools, such as school districts and boards of education, and has devolved these powers and duties directly upon the city, we would naturally expect to find such a departure and notable change expressed in language so clear that no doubt could arise as to this change of policy. If the board cannot be sued for teachers' wages and the teacher must resort to a suit against the city, then surely the board must have sunk into a mere city agency and it no longer has any use for independent corporate powers. Public education then becomes a city function EXPOSED TO THE TAINT OF CURRENT MUNICIPAL POLITICS and to any and every general mismanagement that may prevail in city departments. (O'Brien, J.)

Hutchinson et al. v. Skinner, 21 Misc., 729 (Sup. Ct., Sp. Term, 1897)

A case where the local school board could not agree on appointments. Decision gave power to Superintendent of Public Instruction to open the school, make appointments, etc.

Ham v. Mayor City of New York, 70 N. Y., 459 (1877)

The department of public instruction of the city of New York created under and by the act of 1871, Sec. 7, Ch. 574, Laws of 1871, reorganizing the local government of the city, although formally constituted a part of the city government, is charged with the performance of duties, not local or corporate, but relating and belonging to an administrative branch of the State government. The commissioners of said department have also exclusive authority as to the employment and control of subordinates and servants. The city corporation, therefore, is not liable for negligence or unskillfulness in the discharge of their duty on the part of subordinates or servants employed by the commissioners.

The act of 1871 does not, however, declare that this department should possess the powers and privileges of a corporation, but it evidently was the apparent intention to make its officers and servants, to a great extent, independent of the corporation and not liable to the control of the city government. Whether it was a corporate body is not material, for although formally constituted a department of the municipal government, the duties which it was required to discharge were not local or corporate, but related

and applied to an important branch of the administrative department of the State government.

People v. Board of Education, Saratoga Springs, 54 Barb., 480 (1867)

Where the trustees of a village who were required by statute to raise and collect by tax, as other taxes are collected, such sums as the board of education created by such statute should deem necessary to organize and carry on schools in the village—on being notified by such board of its determination as to the sum needed for the purpose expressed in this act—refused to raise same by tax, held that they could be compelled by mandamus to do so.

State ex rel. Clark v. Haworth, School Trustee of Monroe School Township, Howard County, Indiana. 122 Ind., 462

In a case in which the relator petitioned for the right of mandate to compel the trustees of Monroe Township to certify to the County Superintendent of Schools the number of text-books required for children, and to procure and furnish such text-books, the judge said:

The act assailed does not impinge in the slightest degree on the right of local self-government. The right of local self-government is an inherent and not a derivative one. It is the right which a man possesses in virtue of his character as a freeman. It is not bestowed by the legislature nor derived from statutes, but the courts, which have carried to its utmost extent the doctrine of local self-government, have never so much as intimated that it exists as a matter over which the Constitution has given the law-making power a supreme control. Nor have they gone beyond the line which separates matters of purely local concern from those of State control. Essentially and intrinsically the schools in which are trained the children who are to become the rulers of the commonwealth are matters of the State and not of local jurisdiction. In such matters the State is the unit and the legislature the source of power. The authority over schools and school affairs is not necessarily a distributive one to be exercised by local instrumentalities, but, on the contrary, it is a central power residing in the legislature of the State. It is for the law-making power to determine whether the authority shall be exercised by a State board of education or distributed. With that determination the judiciary can no more rightfully interfere than can the legislature with a decree or judgment pronounced by a legislative tribunal.

That the control of schools and school affairs is vested in the law-making power of the State, that the schools are intrinsically matters of State concern and not of a local nature, our constitution declares in language that cannot be mistaken. It is a matter of State and not of locality. The language of the constitution is: "Knowledge and learning generally diffused throughout the community being essential to the preservation of free government, it shall be the duty of the General Assembly, by all suitable means, to provide by law for a general and uniform system of common schools, etc." The constitution enjoins the duty and confers the power.

Fuller v. Heath, 89 Ill., 312 (1878)

The officers of a city may be vested with power by the legislature to levy and collect taxes for the support of common schools. Such laws, wherever found, are a part of the school laws of the State, and not strictly a part of the charter or law of the State. In such case the city officers are mere agencies of the public to carry into effect the objects and purposes of the general school system. * * *

Before the adoption of the present constitution the city of Chicago was by law given the title of all school lands within its boundaries and was clothed with the power of collecting taxes for school purposes and charged with the duty of supporting its schools. The laws on this subject in force

at that time, whether embodied in form in the charter of the city, or in amendments to the charter, or in laws not purporting in form to be a part of its charter, must be regarded as a part of the school laws, and not as strictly as part of its charter for strictly city purposes.

Speight et al. v. The People, 87 Ill., 599 (1877)

There is no limitation in the constitution to the powers of the legislature in providing for the formation of school districts nor in describing who shall or who shall not be empowered with the levy, collection and custody of school taxes. These are wholly within the discretion of the legislature.

So, although the General Assembly may require the boundary lines of cities to be adopted as lines for the formation of school districts, and that city officers shall perform the duties of school officers, such officers will in the exercise of their different functions, represent the corporations to which these functions respectively appertain—those belonging to the city under its charter in the one case, and those relating to schools under the school law in the other. As affecting the power of the city council to levy taxes for free school purposes under the charter which vests in the city officers the control over such schools within territorial limits of the city, all laws, whether in city charters or elsewhere, upon that subject may be regarded simply as school laws and as a part of the law designed to execute the mandates of the constitution in respect to a free school system.

The constitutional prohibition that the General Assembly shall not pass any local or special law providing for the management of common schools does not operate to prevent the levying of taxes for school purposes and the custody of the funds when the taxes are collected. * * * There is a distinction in this regard between the establishing of a school and providing for its support and its management or conduct when established and supported.

State, ex rel., v. Ogan, 159 Ind., 121

As will hereafter appear, progress will be made in the solution of the question before us by considering the character of school corporations in their relation to the State. The Constitution does not direct the General Assembly to provide for the organization of the common schools, but it directs that body to devise "a system of common schools." Art. 8, Sec. 1. The word "system" is thus defined by the Encyclopædic Dictionary: "A plan or scheme according to which things are connected or combined into a whole; as assemblage of facts, or of principles and conclusions, scientifically arranged or disposed according to certain mutual relations, so as to form a complete whole; as a system of philosophy, a system of government, etc." A system of school government in which the cap-sheaf is a State officer, having authority more or less broad, as the legislature may provide, but which, of necessity, reaches down to and affects the schools themselves, is a centralized, and not a localized form of school government. Judge Cooley, in his great chapter on decentralization, recognizes the distinction between that class of public corporations where the people voluntarily take upon themselves the corporate function, and that class of quasi corporations that exist under the general laws of the State apportioning the territory of the State into political divisions for convenience of government, and requiring of the people residing within those divisions the performance of certain public duties as a part of the machinery of the State. Whether the inhabitants, says the author, "shall assume those duties or exercise those powers, the people of the political divisions are not allowed the privilege of choice; the legislature assume

this division of the State to be essential in republican government, and the duties are imposed as a part of the proper and necessary burden which the citizens must bear in maintaining and perpetuating constitutional liberty." Cooley's Const. Lim. (5th ed.) 240. The following quotation from the case of *City of Lafayette v. Jenners*, 10 Ind., 70, 77, is apropos here: "And we have seen that common schools as a whole, are made a State institution—a system co-extensive with the State, embracing within it every citizen, every foot of territory, and all the taxable property in the State." "Essentially and intrinsically," said this court in *State v. Haworth*, 122 Ind., 462, 465, 7 L.R.A. 240, "the schools in which are educated and trained the children who are to become the rulers of the commonwealth are matters of State, and not of local jurisdiction. In such matters the State is a unit, and the legislature the source of power. The authority over schools and school affairs is not necessarily a distributive one to be exercised by local instrumentalities; but on the contrary, it is a central power, residing in the legislature of the State. It is for the law-making power to determine whether the authority shall be exercised by a State board of education, or distributed to county, township or city organizations throughout the State."

William v. Board of Education of City of Parsons, 106 Pac. Rep., 36 (Supreme Court of Kansas, Jan. 8, 1910)

The control of city schools, including the selection of sites and the distribution of pupils, is devolved by the legislature on the board of education, and the discretion committed to that body is to be exercised untrammelled by judicial interference, and its decisions are final, except when its action is capricious or arbitrary.

Howard, Appellant, v. Independent School District No. 1 of Nez Perce County, Respondent, 106 Pac. 692, Idaho

(Supreme Court, January, 1910)

4. An independent school district, created and organized under special charter from the territorial legislature, is as fully an "educational corporation," under the control of the State within the purview of Sec. 2, art. 11 of the constitution as is any other educational corporation within the State.

Idaho 541

An independent school district organized and existing under a special charter at the time of the adoption of the constitution was as much an "educational corporation" as any other educational institution that had been incorporated under special charter. There is nothing in the organization and existence of an independent school district chartered for the purpose of maintaining and conducting "public, free common schools" that is in conflict with either the letter or spirit of the constitution. The mere fact of its existence is not obnoxious to the *uniformity* requirement of the constitution.

Law Journal—May 18, 1909

SUPREME COURT—Special Term, Part IV

By Mr. Justice MacLean

The United Electric Light & Power Co., v. Board of Education

To the complaint of the plaintiffs, alleging forty-six causes of action upon as many contracts made at different times with the defendant for the supply of electric current for lighting purposes in certain public school buildings of the city, performance by the plaintiff and neglect and refusal by the defendant to pay the sums due on said contracts, and the

filing of its claims with the neglect and refusal by the comptroller of the city to adjust or pay the same more than thirty days prior to the commencement of this action, the defendant demurs on the grounds that the City of New York and not the defendant herein is the proper party defendant, and that the complaint does not state facts sufficient to constitute a cause of action. The facts stated in the complaint and admitted in the demurrer do set forth a cause of action upon a disputed claim against the defendant under Sec. 1055 of the Greater New York Charter as "The only relation that the city has on the subject of public education is as the custodian and depository of school funds, and its only duties with respect to that fund is to keep it safely and disburse the same according to the instructions of the Board of Education." (*Gunnison v. Board of Education*, 176 N. Y., 11, 17; *Fidelity and Deposit Company v. City of New York*, 108 App. Div., 263.) Whatever be the jurisdiction of the Commissioner of Water Supply, Gas and Electricity under Sec. 469 of said charter relative to public buildings, it may hardly under the rules of statutory construction be held to include control of the subject matter of the present action, as care and control of the property in question is vested in the Board of Education, the city being custodian of the fee by Sec. 1055 of said charter, and as "the policy of this State for more than half a century has been to separate public education from all other municipal functions and entrust it to independent corporate agencies of its own creation." (*Gunnison v. Board of Education*, *supra*, at p. 25). As said therein at page 26, "It is still the sole representative of the school system, with exclusive powers to control, manage and administer all school property and school funds." The demurrer will therefore be overruled with costs, but with leave to the defendant to answer.

This decision follows *Gunnison*, and was affirmed, 136 App. Div., 931, January, 1910.

